

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
FEBRUARY 8, 2005 – 6:30 PM

6:30 PM

- STUDY SESSION

- > UPDATE ON COMMUTER RAIL URBAN RENEWAL FEASIBILITY STUDY
 - Community Development Director Hendryx
- > CITY COUNCIL ORIENTATION
 - City Attorney

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss employment of a public officer, real property transaction, pending litigation, and to review & evaluate the employment-related performance of the chief executive officer under ORS 192.660(2)(a)(e)(h) & (i). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
- 1.2 Roll Call
- 1.3 Pledge of Allegiance: Flag Ceremony – Cub Scout Pack 232
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

- 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- Tigard High School Student Envoy Nikki Pham
- Tigard Area Chamber of Commerce Dan Murphy
- Follow-up to Previous Citizen Communication

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

3.1 Approve Council Minutes for January 11, 2005

3.2 Receive and File:

a. Council Calendar

b. Tentative Agenda

c. 5th Tuesday – Council Meeting Notes for November 30, 2004

3.3 Authorize Submittal of the City of Tigard's Third-Year Title 7 Functional Plan Compliance Report – Resolution No. 05-____

3.4 Local Contract Review Board:

a. Award Contract for the Construction of FY 2004-05 Storm Drainage Major Maintenance Program

b. Authorize the Purchase of New Police Portable Radios Using a State of Oregon Price Agreement

3.5 Reappoint Bob Rohlf to the Washington County Consolidated Communications Agency Budget Committee – Resolution No. 05-____

- Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.

4. ADOPT 2005 COUNCIL GOALS

- Summary: Mayor Craig Dirksen

5. RECOGNITION OF CENTREX

- Staff Summary: Risk Manager Loreen Mills

6. PUBLIC HEARING (QUASI-JUDICIAL) – PUBLIC SEWER EASEMENT VACATIONS (VAC 2004-00002) SW FREWING STREET AT SW PACIFIC HIGHWAY AND SW PFAFFLE STREET AT SW 79TH AVENUE

The applicants have proposed to either relocate or reconstruct the sewer lines in conformance with current city engineering standards. These vacations are necessary to implement prior development approvals.

The request was filed with the City on October 25, 2004 and initiated by the City Council at the request of the applicant on January 11, 2005. Any interested person may appear and be heard for or against the proposed vacation of said Frewing @ Pacific Highway Sewer Easement Vacation & Pfaffle @ 79th Avenue Sewer Easement Vacation. Any written objections or remonstrances shall be filed with the City Recorder by 7:30 PM on February 8, 2005.

- a. Open Public Hearing
 - b. Declarations or Challenges
 - c. Staff Report: Community Development Department
 - d. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal
 - e. Staff Recommendation
 - f. Council Questions
 - g. Close Public Hearing
 - h. Council Consideration: Ordinance No. 05-__ and Ordinance No. 05-__
7. PUBLIC WORKS DEPARTMENT: MISSION/VALUES EXERCISE RESULTS
- Staff Summary: Dennis Koellermeier, Public Works Director
8. PUBLIC HEARING (QUASI-JUDICIAL) ASH CREEK ESTATES – LAND USE BOARD OF APPEALS (LUBA) REMAND - SUBDIVISION (SUB) 2003-00010/PLANNED DEVELOPMENT REVIEW (PDR) 2003-00004/ ZONE CHANGE (ZON) 2003-00003/SENSITIVE LANDS REVIEW (SLR) 2003-00005/ADJUSTMENT (VAR) 2003-00036/ADJUSTMENT (VAR) 2003-00037

ITEM ON REMAND: The State Land Use Board of Appeals (LUBA) has remanded City Council's approval of a 29-lot Planned Development Subdivision on 9.3 acres and associated Zone Change, Sensitive Lands, and Adjustment reviews for additional findings to support their decision. This hearing is limited to the four specific assignments of error which are generally: 1) The City's acceptance of lower "K" values in relation to the proposed vertical sag on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards; 2) The requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provide a removal plan, protection plan, and mitigation program in accordance with Tigard Community Development Code (TCDC) Chapter 18.790; 3) Revised findings are required for the proposed curb tight sidewalks on SW 74th Avenue and also for the cul-de-sac standards to address the relevant criteria of

TCDC Chapter 18.370.C.11; and 4) Additional findings related to the landscape protection criteria of TCDC Chapter 18.745.030.E. A full copy of LUBA's Final Opinion and Order can be obtained from City Hall at cost, or is also available online at <http://luba.state.or.us/pdf/2004/aug04/03194.htm>.

LOCATION: 9750 SW 74th Avenue; WCTM 1S125DC, Tax Lots 300 and 400. **ZONE:** R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** Tigard Community Development Code Chapters 18.370, 18.745, 18.790 and 18.810.

- a. Open Public Hearing
- b. Declarations or Challenges
- c. Staff Report: Community Development Department
- d. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal
- e. Staff Recommendation
- f. Council Questions
- g. Close Public Hearing
- h. Council Consideration: Option would be to direct staff to prepare a final order to be considered by Council at the Council meeting of _____ (date).

9. COUNCIL LIAISON REPORTS

10. NON AGENDA ITEMS

11. **EXECUTIVE SESSION:** The Tigard City Council will go into Executive Session to discuss employment of a public officer, real property transaction, pending litigation, and to review & evaluate the employment-related performance of the chief executive officer under ORS 192.660(2)(a)(e)(h) & (i). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

12. ADJOURNMENT

t:\admt\city\cc\2005\050208.doc

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
January 11, 2005

- The Tigard City Council went into Executive Session at 7:05 p.m. to discuss pending litigation under ORS 192.660(2)(h).

Executive Session concluded at 7:33 p.m.

- 1.1 Call to Order – Mayor Dirksen called the City Council & Local Contract Review Board to order at 7:36 p.m.
- 1.2 Roll Call – Mayor Dirksen and Councilors Harding, Sherwood, Wilson, and Woodruff were present.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non-Agenda Items:

City Manager Monahan noted staff would recommend the Council President election be postponed until January 25, 2005. (See Agenda Item No. 9 for more information.)

2. OATH OF OFFICE CEREMONY

Municipal Judge Michael O'Brien administered the oath of office to Mayor-elect Craig Dirksen to serve as Tigard Mayor for the term January 1, 2005 to December 31, 2006.

Municipal Judge Michael O'Brien administered the oath of office to Councilor-elect Tom Woodruff to serve as Tigard Councilor for the term January 1, 2005 to December 31, 2008.

Municipal Judge Michael O'Brien administered the oath of office to Councilor-elect Sally Harding to serve as Tigard Councilor for the term January 1, 2005 to December 31, 2008.

3. INAUGURAL REMARKS

- Councilor Sally Harding expressed thanks to those who supported her during her campaign. Councilor Harding said her family moved to Tigard in 1962 and the community at that time, was suburban, yet rural. She described the area then: open fields, small farms, and lots big enough to play ball on. Cook Park was an open field with a dilapidated merry go-round

and a swing set. She referred to urbanization growing pains over the years, with people moving away when new development (Greenburg Road widening and Washington Square construction) arrived. Today, ongoing annexations and higher densities in the metro area have "felt like a curse to many of us." Densities forced upon us with urban-style city standards have been controversial for many years.

Councilor Harding referred to the recent annexation election, which "created a divide, which absolutely tore my heart out." The animosity was simply unacceptable. She noted she encouraged the fairness of the double majority vote. She said she was not against annexations; however, she was against not working together.

Councilor Harding said she upholds Tigard's Charter and places citizens at the top of the chart. She said she wanted staff driven by Council and for "we the people, to be the true navigators for the future of Tigard." She noted she is sincerely committed to everyone working together to solve problems. She urged citizen involvement and said membership on a task force or a committee was not required, but "attend a meeting whenever you can...let your voice be heard." While she might not always agree with an opinion expressed, she said she respects diverse opinions.

Councilor Harding said: "With your talents and energy behind me, my one small voice, though just one, will resound with strength. I will work to improve communication and government credibility. Character matters. Trust is key. Accountability in all things. And, for the local news, whether good or bad, information before and not after the fact. I want breaking news stories to come from City Hall, not from news reporters."

She noted, by cooperating together, the future could be improved, but the past could not be changed. She said: "Please let go of hostility, it will only hold us back. It is my prayer that each of you has the courage to take the bold steps necessary to get involved. This is *your* city, and *you* are its leaders at the top of the organization chart of the City code...because of your vote in me, I am your mouthpiece at City Hall...I will ask questions, investigate issues and refuse to allow blame, bitterness, or alienation to take me. Please, don't ever be afraid to approach me. I will be here for you and never forget that my focus is one of having community and council work more closely together for the better of the all. Thank you, again, for your vote of confidence in me. I am honored to serve you for four years."

- Councilor Tom Woodruff expressed thanks to family, friends and supporters. He said that, although he had served on Council for ten months by appointment, it was very different to have thousands of people vote for him. He promised to do his best to represent those who voted for him and all the 45,000 residents of Tigard. He thanked the people who work hard every day

to make Tigard a great place to live, "...the 264 employees of the City, the 526 volunteers, who gave of their time last year." He said, "I am before you tonight as just the latest of 55 city councilors who have been elected since Tigard became a city in 1961. I am honored, humbled and happy to be chosen for this position."

Councilor Woodruff noted, aside from the School Board, city government is the closest democracy to the people. The City is involved in the everyday things that contribute to the well-being of individuals, families, and neighborhoods. City government is non-partisan, which better allows the Council to focus on people, instead of political parties.

Councilor Woodruff said, "As I look ahead to the next four years, I wonder if it is possible to be responsive to so many residents, with so many perspectives, and so many different priorities. How can we possibly do all the things that people want done, while still living within our limited budget? The reality is that we can't do everything that needs to be done, let alone everything that everyone *wants* to be done. We just need to do the best that we can, with the best information, and the best resources that we have available."

Councilor Woodruff advised he has learned over the last ten months that it is impossible to please everyone. Many decisions leave some people happy and others unhappy. He has learned that the unhappy people are always more vocal than the happy people. "I wish that was not the case."

Councilor Woodruff listed some of his priorities for the next year:

- The downtown revitalization proceeds with substantial, not just cosmetic, improvements.
- The Comprehensive Plan is updated to reflect the community's desire for greater flexibility in the area of housing density.
- Tigard enhances and improves its long-term water supply.
- The priority for transportation and capital improvement funds shall be to reduce congestion on Highway 99.
- See to it that citizens are more informed and more involved with City government.

Councilor Woodruff said, "There's a very old adage that, I'm sure you have all heard... There are three kinds of people: those that make things happen, those that watch things happen, and those that don't know that anything has happened. These categories are true for the City. There are far too many people who just do not know what has happened. I want to encourage people to become more aware and "hopefully to become involved and make things better."

Councilor Woodruff concluded by saying, "I thank you for your attention and I look forward to working with all of you."

- Mayor Craig Dirksen thanked family, friends, and the citizens of Tigard for the trust and confidence shown in him by electing him to the office of Mayor. Although he served as Mayor for more than a year when appointed to the position after the death of Mayor Griffith, now that he has received the popular vote, he feels like he is really the Mayor. In addition, he thanked the voters for electing Councilor Woodruff to serve on the Council as this showed a vote of confidence for the Council's decision to appoint Councilor Woodruff to serve for the last ten months of 2004.

He said, "I hope all of you love Tigard, the way I love Tigard. But, you'd have to be very myopic to believe the City is all that it could be. We have a lot to do to make Tigard the city that it can be and the city that it should be."

Mayor Dirksen advised that each January the City Council sets goals for the coming year, which includes what the Council would like to accomplish during the year as well as long-term goals for which the Council would like to see progress. The Council's goal-setting session will be next week. After that meeting, Mayor Dirksen said he would be reporting on the goals. He stated, "I can tell you up front what two of those goals will be...they're the ones that Councilor Woodruff mentioned..." The first goal is to see that the downtown plan is completed, which will identify how the central business district will be revitalized and to implement the plan. The second is to get the process well underway for revision of the Comprehensive Plan. The Mayor stated that the citizen visioning process will serve as a guide for the work to be done on the Comprehensive Plan, which will help assure that the City will look like what "our citizens want the City to look like."

The Mayor said, "We will be busy this coming year. I appreciate Sally Harding coming onto Council and also Tom Woodruff. The two of them, when they were elected, stated that one of their goals was to improve communications with the citizens...and already we have been discussing some ideas to further that goal."

Mayor concluded his remarks by saying, "So many things to do, so little time. I look forward to working with the Council, with all of our citizen volunteers, and the citizens of Tigard. It's an honor to be your Mayor, and I promise to do my best to live up to that office. Thank you."

4. CITIZEN COMMUNICATION

- a. Tigard Area Chamber of Commerce President Dan Murphy reviewed upcoming events sponsored by the Chamber of Commerce.
- b. Holly Shumway, 14535 SW Woodhue Street, Bull Mountain/unincorporated Washington County. Ms. Shumway is the Chair of CPO 4B, which is a citizen participation organization representing 40,000 Washington County residents within the city limits of Tigard and unincorporated Washington County/Bull Mountain. "We are the only organized and inclusive citizen participation group that is open to all residents..."

Ms. Shumway advised that the CPO offers a wonderful opportunity for many citizens to engage in local land use issues that affect the communities where they live and work. The casual environment is such that citizens feel comfortable asking questions of local governmental leaders. The meetings provide a venue for local government to educate citizens with factual information to allow citizens to make informed decisions regarding issues, which affect their communities. A strong working relationship between governmental leaders and citizens leads to strong citizen involvement and helps diminish feelings of marginalization. It has been the CPO's understanding that representatives of the County recognize the importance commingling the citizens of Tigard and those of unincorporated Bull Mountain to communicate and work together in a coordinated, neutral educational forum to foster a sense of community.

Ms. Shumway said that at the last two meetings, there were no City of Tigard representatives present. She had asked City Engineer Gus Duenas to speak about traffic issues in December. She advised that Mr. Duenas told her that the City Manager made a recommendation that the City would no longer send representatives to the CPO meetings. Mr. Duenas asked Ms. Shumway to send a proposal explaining why Mr. Duenas was requested to attend the January meeting. The CPO wanted to discuss traffic impact fees. Ms. Shumway advised she sent a proposal and asked for a response, but did not receive a response. Members of the CPO wondered why there was no representative from the City of Tigard.

Senior Planner Steve Kelly from Washington County advised Ms. Shumway to have someone from the City of Tigard present to talk about traffic impact fees since he did not feel justice would be served to only have one side.

Ms. Shumway said there was a lot of concern raised at the January meeting and they were wondering what steps could be taken to foster the community and to encourage citizen involvement. The CPO offers a wonderful, inclusive opportunity for citizens and local government to engage back and forth.

In response to a question from Councilor Woodruff, Ms. Shumway advised that elections for the CPO officers had not yet occurred and she is still the Chair until February 1.

Mayor Dirksen said perhaps there is some confusion and staff is not aware of the Council's position regarding attendance at the CPO meetings. The Mayor suggested this might be a good topic for discussion at a Council workshop meeting and have Council discuss what it would like "our involvement to be with the CPO."

Ms. Shumway advised that she thought staff was going to ask Council for a vote on this issue. She said she didn't know if that had happened.

City Manager Monahan said he was not sure about the nature of communication between Mr. Duenas the CPO representatives other than Mr. Duenas brought the question to Mr. Monahan's attention about attending the December meeting. In December, there was a question of resources. Mr. Monahan said, "Do we want to supply a City Engineer to an evening meeting when we already had Gus assigned to other responsibilities...in particular, in doing community participation and input about our capital improvement program..."

Mr. Monahan further commented that the CPO is the County's citizen involvement process and we have our citizen involvement process. He said, "I think the Mayor's idea for a suggestion for an upcoming meeting is to discuss how we're going to communicate and how are those two processes going to work together." Since the December meeting, there had not been a Council meeting for Council to have a discussion on this matter. Mr. Monahan said his idea, and he had suggested this to the Mayor, was to talk to the Council at its goal-setting meeting about how the City would give input to the County on the CPO process and, in return, how would the CPO process work in coordination with the City.

In a brief discussion with Ms. Shumway, Mr. Monahan said he could certainly inform her of any decision by Council to place

discussion and consideration about CPO participation on a future agenda.

b. Follow-up to Previous Citizen Communication

City Manager reported that two citizens testified at the December 14, 2004, City Council meeting. The first citizen was Bruce Dalrymple who is the Board Chair for the Tualatin Hills Park and Recreation District. His issue was about the adoption of the system development charge increase. The Council heard further input from Mr. Dalrymple later in the meeting, so Mr. Monahan said he believed Mr. Dalrymple's issue was resolved.

The second speaker at the December 14, 2004, Council meeting (Citizen Communication) was Gretchen Buehner who suggested that the City Council discuss the islands that have been created by annexation over the last several years. Ms. Buehner specifically mentioned the Metzger area and areas within Bull Mountain. Her suggestion was that the Council review this issue at its goal setting meeting. Mr. Monahan said he has noted "what should be done about the islands" on his list of issues when the Council reviews the goal on growth management from 2004.

5. CONSENT AGENDA

Tigard Youth Advisory Council President Williams reviewed the following Consent Agenda:

- 5.1 Approve Council Minutes for November 16 and 23, 2004
- 5.2 Receive and File
 - a. Council Calendar
 - b. Tentative Agenda
- 5.3 Initiate Vacation Proceedings for Two Separate Public Sewer Easements at SW Frewing Street/Pacific Highway and SW Pfaffle Street/SW79th Avenue – Resolution No. 05-01 and Resolution No. 05-02

RESOLUTION NO. 05-01 – A RESOLUTION INITIATING VACATION PROCEEDINGS FOR A PUBLIC SEWER UTILITY EASEMENT OF APPROXIMATELY 1,248 SQUARE FEET LOCATED AT SW FREWING STREET AT SW PACIFIC HIGHWAY (VAC 2004-00002)

*RESOLUTION NO. 05-02 – A RESOLUTION INITIATING
VACATION PROCEEDINGS FOR A PUBLIC SEWER UTILITY
EASEMENT OF APPROXIMATELY 476 SQUARE FEET LOCATED
AT SW PFAFFLE STREET AT SW 79TH AVENUE (VAC2004-00002)*

- 5.4 Approve Intergovernmental Agreements with the City of Tualatin, Washington County and the Oregon Department of Transportation for Bridgeport Village Development

Motion by Councilor Sherwood, seconded by Councilor Woodruff, to approve the Consent Agenda.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	Yes
Councilor Harding	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

6. RECOGNIZE THE TIGARD YOUTH ADVISORY COUNCIL

- a. Assistant to the City Manager Liz Newton presented the staff report. Before the Council was a resolution to formally recognize the Tigard Youth Advisory Council as the official body to advise the City Council on ways to empower and involve youth in the Tigard Community. The Tigard Youth Advisory Council, in the last 18 months, adopted bylaws and participated in many community events and services projects. Members of the Youth Advisory Council also serve as ex-officio members of several City Boards and Committees.

- b. Tigard Youth Advisory Council President Rob Williams thanked the Council for considering the proposed resolution, for supporting the Tigard Skate Park, and for making "youth" a goal. He said he hoped the Council would continue their support.

- c. Council Discussion:

Mayor Dirksen confirmed ongoing support for the youth of Tigard and was in favor of the proposed resolution to formalize the Council's recognition of the Youth Advisory Council.

Councilor Sherwood added thanks to the adults who work with the Youth Advisory Council.

In response to a question about Youth Advisory Council membership, Ms. Newton advised that there are 15 active members currently. The Bylaws allow for 30 members.

d. Council Consideration of Resolution No. 05-03.

Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Resolution No. 05-03.

RESOLUTION NO. 05-03 – A RESOLUTION FORMALLY RECOGNIZING THE TIGARD YOUTH ADVISORY COUNCIL AS THE OFFICIAL BODY TO ADVISE THE CITY COUNCIL ON WAYS TO EMPOWER AND INVOLVE YOUTH IN THE TIGARD COMMUNITY.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	Yes
Councilor Harding	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

7. CONSIDER EXPANSION OF THE COMMITTEE FOR CITIZEN INVOLVEMENT (CCI)

- a. Community Development Director Jim Hendryx presented the staff report on this agenda item. The Council Agenda Item Summary (a copy is on file in the City Recorder's office) reviewed the requirements of the Oregon Statewide Planning Goal 1 for jurisdictions to develop and include in their comprehensive plans a citizen involvement process that insures the opportunity for citizens to be involved in all phases of the planning process. Mr. Hendryx reviewed the history of the CCI for the City of Tigard. A copy of Mr. Hendryx's December 27, 2004, memorandum to the City Council regarding a "short history of the Committee for Citizen involvement" is on file in the City Recorder's office.

The proposed resolution, if adopted, would expand the CCI to include representatives from the City's active boards and committees. The reconstituted CCI could also include representatives of future neighborhood organizations, which the City is in the process of reestablishing.

b. Council Discussion

In response to a question about whether the proposed resolution makes it possible to include non-residents on the CCI, Mr. Hendryx advised that some boards and committees allow for non-resident members. When the neighborhood organizations are reestablished, non-resident representatives could be considered. The proposed resolution now before the Council does not have language that would exclude non-residents.

The proposed resolution contained the words "neighborhood planning organization." Council members agreed that the word "planning" should be removed from the title of the resolution.

Councilor Woodruff commented that interest had been expressed by the Visioning Committee for broad participation, to include neighborhood organizations and to recruit membership on the CCI outside current committees to augment the participation of what already exists.

c. Council Consideration of Resolution No. 05-04.

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 05-04.

RESOLUTION NO. 05-04 – A RESOLUTION EXPANDING THE MEMBERSHIP OF THE COMMITTEE FOR CITIZEN INVOLVEMENT TO INCLUDE REPRESENTATIVES FROM THE CITY'S ACTIVE BOARDS AND COMMITTEES AND FROM FUTURE NEIGHBORHOOD ORGANIZAITONS.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	Yes
Councilor Harding	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

8. COUNCIL LIAISON REPORTS: None

9. NON AGENDA ITEMS

City Manager Monahan suggested the Council postpone election of a Council President until January 25, 2005. (See the January 11, 2005,

memorandum from City Recorder Cathy Wheatley regarding "Election of Council President," which is on file in the City Recorder's office.)

Motion by Councilor Sherwood, seconded by Councilor Wilson, to postpone the election of the Council President until January 25, 2005.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	Yes
Councilor Harding	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

10. Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adjourn the meeting.

The motion was approved by a unanimous vote of the City Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes
Councilor Woodruff	Yes

The meeting adjourned at 8:29 p.m.

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

k:\admi\cathy\com\2005\050111.doc

MEMORANDUM

Administration



TO: Honorable Mayor and City Council

FROM: Cathy Wheatley *Cathy*

DATE: January 31, 2005

SUBJECT: Three-Month Council Calendar

Agenda Item No. 3.2 a.
For Agenda of February 8, 2005

Regularly scheduled council meetings are marked with an asterisk (*).

February

- 8* Tuesday Council Business Meeting – 6:30 pm, Town Hall
- 15* Tuesday Council Workshop Meeting – 6:30 pm, Town Hall
- 21 Monday President's Day - City Hall Closed, Library Open
- 21 Monday Capital Improvement Program Tour – 3-5 pm – Meet in the Permit Center Lobby
- 22* Tuesday Council Business Meeting – 6:30 pm, Town Hall

March

- 8* Tuesday Council Business Meeting – 6:30 pm, Town Hall
- 15* Tuesday Council Workshop Meeting – 6:30 pm, Town Hall
- 22* Tuesday Council Business Meeting – 6:30 pm, Town Hall
- 29 Tuesday "Fifth Tuesday" Council Meeting – 7 pm Town Hall

April

- 12* Tuesday Council Business Meeting – 6:30 pm, Town Hall
- 19* Tuesday Council Workshop Meeting – 6:30 pm, Town Hall
- 25 Monday Budget Committee Meeting – 6:30 pm, Library Community Room
- 26* Tuesday Council Business Meeting – 6:30 pm, Town Hall

Meeting Date: February 15, 2005 Meeting Type/Time: Workshop/6:30 p.m. Location: City Hall Greeter: Materials Due @ 5: February 1, 2005 Bid Opening Deadline: January 31, 2005 Scan Deadline @ noon: January 28, 2005 Req to Sched Due @5: January 14, 2005 Televised: No Attorney Attends: No	Meeting Date: February 21, 2005 Meeting Type/Time: Tour - 3 PM Location: Meet @ Permit Center Greeter: Materials Due @ 5: Bid Opening Deadline: Scan Deadline @ noon: Req to Sched Due @5: Televised: Attorney Attends:	Meeting Date: February 22, 2005 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Bill D. Materials Due @ 5: February 8, 2005 Bid Opening Deadline: February 7, 2005 Scan Deadline @ noon: February 4, 2005 Req to Sched Due @5: January 21, 2005 Televised: Yes Attorney Attends: No
Study Session Council Training Update on Commuter Rail Urban Renewal Feasibility Study (Schedule and Status of Downtown) - Jim H. - 20 min (if not on agenda for 2/8/05) City Manager Recruitment - Sandy Z.		
Consent Agenda Award Contract for the Construction of North Dakota Street Pedestrian Crosswalk		
Business Meeting Recognition of Citizen Community Partners - Bill D./Jim W. - 10 min Indonesian Resource Cities Exchange Report PP - Dennis - 30 min Update from Washington County on the Commuter Rail Urban Renewal Feasibility Study - PP - Jim H. - 60 min. Ash Creek Estates Remand - (continuance or adopt findings) TriMet IGA - Bill D. - 15 min. TriMet Budget Amendment - RES - Bill D. 5 min *LCRB - Revised Purchasing Rules - PH		
1. Joint Meeting with Planning Commission Comprehensive Plan Update Discussion - Barbara - 60 min. 2. Joint Meeting with Transportation Financing Strategies Task Force - Gus - 35 min 3. Wall Street Update - Gus - 55 min 4. Strategic Finance Plan Discussion - Tom - 60 min.	Capital Improvement Program Tour by Council, Transportation Financing Strategies Task Force, Press	

2/1/2005

Tigard City Council Tentative Agenda 2004

Meeting Date: March 8, 2005 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Gus Materials Due @ 5: February 22, 2005 Bid Opening Deadline: February 21, 2005 Scan Deadline @ noon: February 18, 2005 Req to Sched Due @5: February 8, 2005 Televised: Yes Attorney Attends: Yes	Meeting Date: March 15, 2005 Meeting Type/Time: Workshop/6:30 p.m. Location: City Hall Greeter: Materials Due @ 5: March 1, 2005 Bid Opening Deadline: February 28, 2005 Scan Deadline @ noon: February 25, 2005 Req to Sched Due @5: February 15, 2005 Televised: No Attorney Attends: No	Meeting Date: March 22, 2005 Meeting Type/Time: Business/6:30 Location: City Hall Greeter: Materials Due @ 5: March 8, 2005 Bid Opening Deadline: March 7, 2005 Scan Deadline @ noon: March 4, 2005 Req to Sched Due @5: February 22, 2005 Televised: Yes Attorney Attends: No
Study Session		
Tigard Water Supply Options- Dennis - 60 min	Joint Meeting with Library Board - Margaret - 40 min Proposed Capital Improvement Program Projects for FY 2005-06 - Gus - 20 min Joint Meeting with Skate Park Task Force Dennis - 30 min	Review of FY 2005-06 Community Event Funding Requests - Craig 30 min
Consent Agenda	City Website Review/Consent for Publishing Crime Statistics - PP -Gary E. - 60 min. Downtown Task Force Update - Barbara - 40 min	Consent Agenda
Business Meeting		Business Meeting
Form Sewer Reimbursement Dist No. 34 - (SW 117th Avenue) - RES - PHI - PP Gus - 10 min Form Sewer Reimbursement Dist No. 31 - (SW O'Mara & Edgewood) - RES - PHI - PP Gus - 10 min Finalize Sewer Reimbursement District #27 PP, PHI, RES- Gus - 10 min Finalize Sewer Reimbursement District #30 PP, PHI, RES- Gus - 10 min Update on the Community Assessment Program PP - Liz - 20 min		

2/1/2005

AGENDA ITEM # 3.2c.
FOR AGENDA OF February 8, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Receive and File: Meeting Notes – Fifth Tuesday Council Meeting of November 30, 2004

PREPARED BY: Cathy Wheatley *Cathy* DEPT HEAD OK _____ CITY MGR OK *CP*

ISSUE BEFORE THE COUNCIL

Receive and File: Meeting Notes – Fifth Tuesday Council Meeting of November 30, 2004

STAFF RECOMMENDATION

Accept the November 30 Fifth Tuesday Council Meeting Notes as a “receive and file” item. Future Fifth Tuesday meeting notes will be submitted to the Council as a Receive and File item on its agenda.

INFORMATION SUMMARY

In response to an inquiry from City Recorder Cathy Wheatley, City Legal Counsel Gary Firestone suggested the Council set its policy with regard to the Fifth Tuesday meeting record where there is a potential for a Council quorum at the meeting. Attorney Firestone outlined two options:

1. Present the meeting notes to Council as a “receive and file” item on its agenda.
2. Set up the meeting notes in Council meeting minutes’ format for formal Council adoption.

The November 30, 2004, Fifth Tuesday Council meeting was the first meeting of this type; therefore, it is appropriate for Council to set its policy at this time. Unless directed otherwise by Council, staff will continue to submit the meeting notes for Council as a “receive and file” item after the Fifth Tuesday Council meetings. Staff prepares the advance public notices for the Fifth Tuesday meetings as required.

The next Fifth Tuesday meeting is scheduled for March 29, 2005, 7 p.m. at the Tigard Water Building.

OTHER ALTERNATIVES CONSIDERED

Direct staff to prepare the meeting notes in regular Council meeting minutes’ format.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

November 30, 2004, Fifth Tuesday Council meeting notes.

FISCAL NOTES

No cost.

**FIFTH TUESDAY
COUNCIL MEETING**

**NOVEMBER 30, 2004
7:00 PM**

Sign-In Sheet :

John Frewing
Fred Swan
Marilyn Sturm
Gayle Kauffman
Pat Leonard
Bill Breneman
Scott McLoud
Mark Padgett
Gretchen Buehner
Lisa Hamilton – Treick

Request To Speak:

Fred Swan

Subject – Burke's properties code violation

John Frewing

Subject - George Burke property 9265 SW 74th Ave
violation of Tigard code – property maintenance

Marilyn Sturm

Subject – Not noted

Meeting Notes:

> Property Maintenance:

- Dispute Resolution
- City of Beaverton – 503-526-2523 for Mediation Services

> Signage Aesthetics – motion signs (99W)

- What does law allow to restrict?
- School zone signs, (end school zone, blinking lights)
- Who determines school zone signage and policy?
- Code enforcement on Sunday? (Real estate signage)

> Density requirements and CC&Rs conflicts

> Pedestrian access at 99W & 217 (along 99W) (ODOT handles)

> Greenways & Parks

- Tigard needs more (increased developer fees)

> Rezoning

- Commercial and Greenburg triangle? (around viaduct)

> Downtown Tigard Plan

- Open House @ Library – Saturday, 9 -12

> Tigard Vision

- Task Force Study

AGENDA ITEM # 3.3
FOR AGENDA OF 2/8/05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Third Year Title 7, Affordable Housing, Functional Plan Compliance Report

PREPARED BY: Duane Roberts DEPT HEAD OK [Signature] CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Should Council approve a resolution authorizing submittal to Metro of the Third Year Title 7 Functional Plan Compliance Report?

STAFF RECOMMENDATION

Staff recommends Council approve the resolution authorizing submittal of the the City's Third Year Title 7 Functional Plan Compliance Report.

INFORMATION SUMMARY

In 2001, Metro adopted Title 7, "Housing and Affordable Housing," to amend the Urban Growth Management Functional Plan. This title requires local jurisdictions to adopt comprehensive plan amendments aimed at encouraging the provision of affordable housing and to consider a variety of techniques to meet regional and local affordable housing needs. During 2001-02, Council considered potential new affordable housing measures in a series of workshop meetings. The outcome of this process was the adoption of the "Affordable Housing Program," which is "intended to serve as a comprehensive delineation of the City's program to emphasize and encourage affordable housing in the community."

Title 7 also requires jurisdictions to submit to Metro three annual progress reports. The third and final report in this series is due. It requires local governments to report: amendments to their comprehensive plans, the outcomes of affordable housing tools implemented, and affordable housing developed and expected. A draft copy of a proposed Third Year Report for Tigard is attached.

Metro acceptance of the Third Year Report will end Tigard's reporting obligations under Title 7. By way of "what's next" in the area of affordable housing at the local level, the City will continue to carry out the various components of the adopted Tigard "Affordable Housing Program." These include tax abatement, housing inspection, reduced parking requirements, and other land use and non-land use measures. Additionally, affordable housing provision will be included as part of the upcoming prehensive plan update.

OTHER ALTERNATIVES CONSIDERED

Authorize submittal of the report with any modifications Council deems appropriate.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management, Goal #3: Partnerships for advocacy for development of additional units and preservation of affordable housing are encouraged and supported by the City and the community.

ATTACHMENT LIST

Attachment #1: Proposed Resolution Authorizing Submittal of the City's Third Year Title 7 Report.
Exhibit A: Third Year Title 7 Functional Plan Compliance Report.

FISCAL NOTES

No funds are involved.

i/lrpln/dr/title7 3rd yr rpt

CITY OF TIGARD, OREGON

RESOLUTION NO. 05-_____

A RESOLUTION AUTHORIZING THE SUBMITTAL TO METRO OF THE CITY'S THIRD YEAR
TITLE 7, AFFORDABLE HOUSING, COMPLIANCE REPORT.

WHEREAS, in 2001, Metro adopted Title 7, "Housing and Affordable Housing," as an amendment to the Urban Growth Management Functional Plan; and

WHEREAS, this title requires Metro-area jurisdictions to adopt comprehensive plan amendments aimed at encouraging the provision of affordable housing and to consider a variety of techniques to meet regional and local affordable housing needs; and

WHEREAS, Title 7 also requires affected jurisdictions to submit to Metro three annual progress reports; and

WHEREAS, the third-year report requires local government to report amendments to their comprehensive plans, the outcomes of affordable housing tools implemented, and affordable housing developed and expected; and

WHEREAS, this report is intended to serve as a complete and accurate statement of the City's progress in implementing Title 7;

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City of Tigard City Council does hereby find and declare that the report entitled "Title 7 Third Year Functional Plan Compliance Report," attached as "Exhibit A," is a detailed and factual statement of how the City is addressing Metro's Third Year Title 7 requirements.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2005.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

City of Tigard

Third Year Title 7 Functional Plan Compliance Report

This report is intended to fulfill the requirements of the Third Report of Title 7, Affordable Housing, of the Urban Growth Functional Plan. These requirements include providing information on outcomes and public responses to the jurisdiction's Title 7 compliance efforts, as well as on any outstanding issues identified in prior Metro assessments of earlier progress reports.

With regard to outstanding issues identified in the previous Metro Title 7 compliance reports, the City sent a letter to the Council President's attention, dated January 27th, 2004, that comments on Metro's evaluation of Tigard's Second Year progress report. Within the letter, the City questions two of the three ordinance amendments listed as Outstanding Items for the jurisdiction. The two items were (1.) consideration of density bonus and transfer of development rights and (2.) consideration of replacement housing and inclusionary housing in urban renewal areas. Since the City has not received a reply to this letter as yet, a copy is included here as part of Tigard's Third Year report (Attachment #1). Further, the City has no Urban Renewal Areas at this time.

In response to the Metro-identified outstanding item related to affordable housing maintenance and dispersion, the City has adopted Comprehensive Plan amendments and implementing ordinances designed to address each of the two issues included in this item. Complete copies of the adopting ordinance and text amendments are attached (Attachments #2 and #3). The Tigard Planning Commission and City Council conducted public hearings on the amendments on July 19, 2004 and August 24, 2004, respectively (Attachments #4 and #5). The amendments are intended to further facilitate the provision of affordable housing within the community and to provide additional evidence of Title 7 compliance.

The amendments promote affordable housing dispersal by:

- explicitly recognizing the state statute requiring local jurisdictions to allow manufactured homes in all residential zoning districts;
- requiring the City to maintain its long standing intergovernmental agreement with the Washington County Housing Authority that, among other provisions, emphasizes the placement of new Authority-owned affordable housing at dispersed sites within the community; and
- requiring the City to establish a fee subsidy program for affordable housing development that includes guidelines giving preferential treatment to projects that facilitate the dispersal of affordable housing within the City.

(A copy of the revised guidelines themselves is included as attachment #6).

The amendments promote the maintenance of existing housing stock in two ways: by requiring the City to develop a Residential Property Maintenance Code and assign a Housing Inspector to administer it and by requiring the City to encourage residents to utilize the various low interest loan and grant home repair programs offered by the Washington County Office of Community Development through its Housing Rehabilitation Program. Some of the means that have been and will continue to be used to publicize and encourage use of the program include informational fliers and City webpage, newsletter, and cable program announcements and contact information.

As for the "outcomes" of the tools and strategies adopted by the City to promote affordable housing, in the three years since Title 7 took effect, Washington County Housing Services has added 192 apartment units within Tigard and the non-profit affordable housing provider Community Partners for Affordable Housing (CPAH) has added 26 new units.

Of these 218 additional units, Tigard has provided various forms of assistance (see below) to two multi-family projects that together account for 124 of the new units. However, it would be a stretch to claim a direct link between these local incentives and off-site capital improvements, on the one hand, and the "initiation or completion" of the two apartment projects involved, on the other. Simply stated, this is because the City's direct contributions to the financing and operation of the two projects were comparatively small relative to the projects' development costs of \$1.2 and \$5 million dollars each.

Washington Square Estates (28 units)

25% reduction in required parking spaces

SDC fee reimbursement, \$8,000

Tax abatement, \$20,700 (FY 03/04)

Sidewalk in-fill between Highway 99 and apartment complex, \$102,000

Bonita Villa (96 units)

Permit fee reimbursement, \$10,000

Development of park serving Bonita Villa and two nearby low-rent apartments, \$250,000

Installation of pedestrian crossing with flashing lights, \$56,000

Worked with TriMet to facilitate new service on Bonita Road

In both cases, these projects would have been built without the City assistance. At the same time, according to the two housing providers, the City's assistance

did enable the providers to target rent levels slightly lower than otherwise would have been feasible. In the case of the Washington County Housing Authority project, the saving was spread over various rent levels. Three of the units are targeted at households earning 50% of median income. The remaining units are targeted to the 60% group. In the case of the new CPAH-owned units, the City's pre-construction assistance enabled the nonprofit to provide two additional 30% units. The on-going tax rebate enables CPAH to reduce rents across the board on a dollar for dollar basis.

During the various meetings and hearings dealing with the subject of affordable housing held since 2001, the primary individuals or organization representatives who have participated in these meeting and hearing were CPAH and Washington County Housing Services staff. CPAH is based in Tigard and has been the City's partner in the provision of affordable housing in the community. Although a formal partnership agreement does not exist between the City and CPAH, since CPAH's establishment in the mid-1990s, the City has been active in its support of the organization in the accomplishment of its mission. The primary forms of support have included tax abatement on CPAH's portfolio of properties in Tigard, reduced parking requirements on new affordable housing developments, a reimbursement fund for development fees on affordable housing, several years of rent-free office space, the construction of off-site capital improvements (storm drainage, sidewalks, streets) serving CPAH-owned projects, and CPAH participation in the City's Enhanced Safety Program designed to reduce crime and improve the safety of rental properties. In recent years, CPAH also has made informational presentations to City Council and participated with City staff in a cable broadcast focusing on affordable housing needs in Tigard.

Attachments

1. Letter dated January 27, 2004 from James N.P. Hendryx, Director of Community Development, to David Bragdon, Council President
2. Tigard Ordinance No. 04-09, Amending Chapter 6, Housing, Volume II of the Tigard Comprehensive Plan
3. Tigard Comprehensive Plan: Findings, Policies & Implementation Strategies, Volume II
4. City of Tigard Planning Commission Minutes, July 19, 2004
5. City of Tigard Council Minutes, August 24, 2004
6. City of Tigard Affordable Housing Set-Aside Guidelines

January 27, 2004

David Bragdon
Council President
Metro Regional Center
600 NE Grand Ave.
Portland, OR 97232-2736



Dear President Bragdon:

The City of Tigard has reviewed the Metro Title 7 Compliance Report and wishes to submit comments regarding the Tigard section of the second-year portion of the report.

The Tigard Outstanding Items section of the Metro report lists three items. They include:

- (1.) Comprehensive plan measure to maintain the supply and increase new disperse affordable housing.
- (2.) Consideration of density bonus and the transfer of development rights.
- (3.) Consideration of replacement housing and inclusionary housing in urban renewal areas.

(1.) We agree that the referenced plan policy was not directly addressed in the *Tigard Affordable Housing Program* report. The City will consider a proposed comprehensive plan amendment in order to comply with Title 7.

(2.) With regard to density bonus and transfer of development rights, on page 10 of the *Tigard Affordable Housing Program* is the statement that "The following is a description of the approaches that Council decided were not appropriate for Tigard." The resolution adopting this report identifies the document as a "complete and official statement of the City's overall affordable housing program." As such, the phrases "considered, but did not adopt" and "Council has discussed the TDR concept, but taken no action" used in connection with the two strategies under discussion should be read in this context as equivalent to "declined to adopt." Although the phrasing is somewhat imprecise and does not replicate the phrasing used by Metro, the fact is that the Tigard Council clearly did meet the requirement of considering and taking final action, which was to decline to adopt each of these particular strategies.

We request that the Tigard section of the Metro second-year report be changed to indicate that the City complies with Metro Code Section 3.07.730.B.

(3.) The Tigard City Council considered replacement housing and inclusionary housing as part of its consideration of the seven land use strategies (see Tigard *Affordable Housing Program* pages 10 and 11). The decision not to adopt these strategies applies to their use citywide, including in urban renewal areas.

We request that the Tigard section of the Metro second-year report be changed to indicate that the City has met Metro Code Section 3.07.760.

In summary, we believe Tigard's Outstanding Items list should be revised to include one item:

- Comprehensive plan measure to maintain the supply and increase new disperse affordable housing

Thank you for your time and attention.

Sincerely,



JAMES N.P. HENDRYX
Director of Community Development

CITY OF TIGARD, OREGON

ORDINANCE NO. 04-09

AN ORDINANCE AMENDING CHAPTER 6, HOUSING, VOLUME II OF THE TIGARD COMPREHENSIVE PLAN.

WHEREAS, the City of Tigard finds it necessary to revise Chapter 6 of the Tigard Comprehensive Plan Findings, Policies and Implementation Strategies, Volume II; and

WHEREAS, the City of Tigard Planning Commission held a public hearing on July 19, 2004, regarding amendments to the housing chapter; and

WHEREAS, these amendments are those included in Comprehensive Plan Amendment (CPA) 2004-00002; and

WHEREAS, the proposed amendments are designed to promote the dispersal and facilitate the maintenance of affordable housing within the community; and

WHEREAS, the amendments reflect pre-existing actions taken by the City in recent years that have not, as yet, been incorporated into the Comprehensive Plan; and

WHEREAS, the City of Tigard Planning Commission voted unanimously to recommend Council approval of the proposed amendments shown in Exhibit "A"; and

WHEREAS, the City Council held a public hearing on August 24, 2004, to consider the amendments,

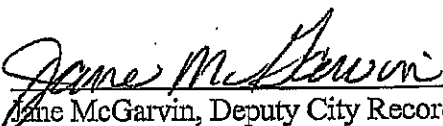
NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The proposed amendments are consistent with all relevant criteria based on the facts and conclusions noted in the attached staff report (Exhibit "B").

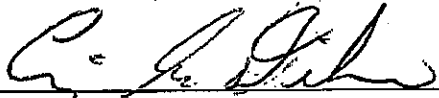
SECTION 2: The specific text amendments attached to the Ordinance are hereby adopted and approved by the City Council.

SECTION: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 24th day of August, 2004.

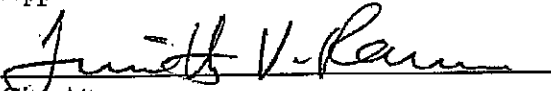

Jane McGarvin, Deputy City Recorder

APPROVED: By Tigard City Council this 24th day of August, 2004.



Craig Diksen, Mayor

Approved as to form:



City Attorney

8.24.04

Date

Tigard Comprehensive Plan Findings, Policies & Implementation Strategies, Volume II

6. HOUSING

This chapter considers the land and the dwelling units where Tigard residents live. Residential land uses occupy more land area than any other land use in the City.

This chapter addresses the Statewide Planning Goal #10:

"To provide for the housing needs of the citizens of the State."

The plan policies focus on five basic areas: 1) Housing needs; 2) Housing costs; 3) Established residential areas; 4) Housing conditions; and 5) Urban Expansion.

Detailed information concerning housing in Tigard is available in the "Comprehensive Plan Report: Housing."

6.1 HOUSING NEEDS

Findings

- Residential housing in Tigard has been developed as 55.6% single family detached dwellings, 42.7% attached units, and 1.7% manufactured homes.
- The Metropolitan Housing Rule adopted by the Land Conservation and Development Commission states that Tigard must provide for 50% single family and at least 50% single family attached or multiple family units with a minimum of 10 units to the net acre. The Metro Housing Rule applies to only vacant buildable land within Tigard's Urban Planning Area, and does not affect established and developed residential areas.
- The rapid increase in housing and land costs over the last several years has excluded many households from obtaining suitable housing to meet their needs.
- Many of the households that do not desire or are unable to afford conventional single family detached dwellings rely on the rental market or attached dwellings to meet their housing needs.
- The rapidly changing housing market will require the City to periodically reevaluate its housing and land use objectives to provide for a variety of housing types and densities to meet the needs of future residents.
- Approximately 19% of the households in Tigard are inhabited by senior citizens.

- Undue concentrations of public assisted or subsidized housing serves to isolate the recipients of such housing from the mainstream of the community, its full range of basic services and the diversity of its neighborhoods. For this reason, the City should take steps to disperse such housing within individual neighborhoods and throughout the City itself.

POLICY

6.1.1 THE CITY SHALL PROVIDE AN OPPORTUNITY FOR A DIVERSITY OF HOUSING DENSITIES AND RESIDENTIAL TYPES AT VARIOUS PRICES AND RENT LEVELS.

(Rev. Ord. 85-03; Ord. 84-38; Ord. 84-29; Ord 96-24)

IMPLEMENTATION STRATEGIES

1. The City shall monitor the rate of development through an annual "land survey," which will function as an up-to-date inventory of land available for future residential needs.
2. The Tigard Community Development Code shall list a broad range of zoning districts which allow for a variety of housing types, and comply with the adopted Metropolitan Housing Rule (50-50 mixture of single family and attached or multiple family at 10 units to the net acre on buildable vacant land).
3. The Tigard Community Development Code, through the Planned Development process, shall establish a procedure to allow properties exhibiting physical constraint characteristics, e.g., steep slopes or floodplains, to develop with density transfers allowable on the site.

In addition, the City shall encourage developers to use the planned development process in all developing areas.

- ~~4. The Tigard Community Development Code shall allow for manufactured homes in manufactured home parks and subdivisions, within specified zoning districts.~~

- 4. The City shall allow for manufactured homes in all residential zoning districts.**

5. The City shall encourage housing development to occur, to the greatest extent possible, on designated buildable lands in areas where public facilities and services can be readily extended to those lands.
6. The City shall provide for opportunities for proposals to develop specialized housing for the area's senior citizens and handicapped based on the needs of these groups by:

- a. Making information available on subsidizing programs;
 - b. Allowing special use housing for these groups in all development districts;
 - c. Requiring the needs of the handicapped to be considered as a part of the Site Design Review process.
7. The City shall coordinate with the Washington County Housing Authority, **private non-profit housing corporations**, H.U.D. and other Federal, State and regional agencies for the provision of subsidized housing programs in Tigard.
 8. The City shall determine through census figures, surveys and organizational reports, such as those prepared by the area Agency on Aging, the extent of the City's need and projected need in the area of low and moderate income housing, senior housing and specialty housing. The City shall encourage the development of such housing types to meet the identified and projected needs.
 9. ***The City shall maintain its long standing intergovernmental agreement with the Washington County Housing Authority that, among other provisions, emphasizes the supply of new Authority-owned affordable housing at dispersed sites within the community.***
 10. ***The City shall establish a fee subsidy program intended to offset fees and charges imposed on affordable housing development. The guidelines for the award of the competitive funds shall give high consideration to projects that facilitate the dispersal of affordable housing within the City.***
 11. ***The City shall encourage maintenance of a sufficient regional residential land supply.***

6.2 HOUSING COSTS

Findings

- The factors that have contributed to increasing housing costs are materials, labor, land costs, financing and regulation costs. (The average sales price of a new single family home increased from \$22,700 in 1970 to \$45,000 in 1976, to over \$76,000 in 1980.)
- Land and regulation costs have dramatically increased the cost of development.
- Construction costs may be reduced by building smaller units and using alternative construction techniques.
- Excessive regulation costs can be reduced by simplifying the application process and reducing unnecessary development standards.
- Financing costs of residential units cannot be controlled by the City of Tigard; however, the City can assist in public facilities and services development through financing mechanisms.

POLICY

6.2.1 THE CITY SHALL DEVELOP CLEAR AND CONCISE DEVELOPMENT REGULATIONS AND STANDARDS TO FACILITATE THE STREAMLINING OF DEVELOPMENT PROPOSALS, AND WILL ELIMINATE UNNECESSARY PROVISIONS WHICH COULD INCREASE HOUSING COSTS WITHOUT CORRESPONDING BENEFIT.

IMPLEMENTATION STRATEGIES

1. The City shall review, revise and update the land division, zoning and sign codes. The corresponding document will be grouped in a single code and identified as the Tigard Community Development Code.
2. The Tigard Community Development Code shall include clear and concise processes for the review and approval of development proposals, to the degree that the quality of the review process is not adversely affected. This will be accomplished by, but not limited to:
 - a. Administrative procedures;
 - b. Application forms; and
 - c. Clear and concise standards for each development process.
3. The City shall seek ways to minimize the cost of housing by encouraging a variety of home ownership alternatives such as, but not limited to, townhouses and condominiums.
4. The City shall continue to support the development of traditional housing types such as single family detached dwellings, duplexes and apartments.
5. The City shall encourage geographic flexibility in the choice of housing.

6.3 ESTABLISHED RESIDENTIAL AREAS (REPEALED BY ORDINANCE 98-19 dated 8/25/98)

6.5 HOUSING CONDITIONS

Findings

- A majority of the City's existing units have been built since 1960; and in general, these units are in good condition.
- Most of the upkeep on these structures involves minor mechanical problems, weatherization and painting.

- The City currently does not have any rehabilitation programs for those residential structures that need major repairs. The Washington County Community Action Organization (WCCAO) does administer a weatherization program funded by the federal government to assist low income residents. Other residents of Tigard may rely on federal and State tax incentives for weatherization, as those incentives are available. As many of the existing 20 year-old homes age, more repair and rehabilitation work may be needed in order to maintain the high quality of residential structures that now exist.
- The ~~Housing Authority of Washington County~~ **Community Development Office** operates a Home Repair Program funded by the Federal Government to assist low and moderate income homeowners. The Housing Authority **of Washington County** ~~also~~ operates a Multi-Family Rental Rehabilitation Program funded by the Federal Government, to assist units occupied by low and moderate income tenants.

POLICY

6.5.1 THE CITY SHALL REQUIRE THAT ALL HOUSING UNITS BE:

- a. CONSTRUCTED ACCORDING TO THE OREGON UNIFORM BUILDING CODE OR OTHER APPLICABLE STATE OR FEDERAL STRUCTURAL CODES; AND
- b. MAINTAINED IN A MANNER WHICH DOES NOT VIOLATE THE CITY'S NUISANCE OR **PROPERTY MAINTENANCE REGULATIONS.ORDINANCE**

IMPLEMENTATION STRATEGIES

1. The Tigard Community Development Code will establish a Site Development Review, Conditional Development and Planned Development process in which to review development proposals.
2. The City will continue to administer the Uniform Building Code on all applicable types of construction in Tigard.
3. ***In order to insure continued safe and sanitary housing, the City shall develop a Residential Property Maintenance Code and assign a Housing Inspector to administer it.***
4. ***To assist residents who need financing for home repairs, the City shall encourage residents to utilize the various low interest loan and grant programs offered by the Washington County Office of Community Development through its Housing Rehabilitation Program.***
- 3.5 The City will enforce, where financially feasible, all nuisance ordinances that relate to structure—and site appearances. ***The City also will enforce all ordinances that relate to structural soundness.*** The City will encourage

private property owners to comply with all nuisance and ***structural*** ordinances, which will alleviate the financial burden of the City and its taxpayers to enforce these ordinances.

- 4.6 The City will set reasonable rules in the Tigard Community Development Code for accessory buildings which will protect the character of existing residential neighborhoods.

i/lrpn/dr/6

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
July 19, 2004**

1. CALL TO ORDER

President Padgett called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Padgett; Commissioners Bienerth, Buehner, Meads, and Munro

Commissioners Absent: Commissioners Caffall, Haack, and Sutton

Staff Present: Duane Roberts, Associate Planner; Julia Hajduk, Associate Planner; Jerree Gaynor, Planning Commission Secretary

3. PLANNING COMMISSION COMMUNICATIONS

- The next meeting is scheduled for August 16th.
- Eight Planning Commission applicants will be interviewed for the open and alternate positions.
- The secretary has copies of the Government Standards & Practices training.
- President Padgett wants to have a workshop on planned developments in September.
- President Padgett reminded the Commissioners about the Bull Mountain Annexation hearing on July 27th. Commissioners may testify as individuals, not as representatives of the Planning Commission.
- Discussion was held on meeting attendance.

4. APPROVE MEETING MINUTES

It was moved and seconded to accept the June 21, 2004 meeting minutes as submitted. The motion passed by a vote of 4-0. Commissioner Buehner abstained.

5. PUBLIC HEARING

5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2004-00002 AFFORDABLE HOUSING CODE AMENDMENT

REQUEST: The City of Tigard proposes to amend Chapter 6, Housing, of Volume II of the Tigard Comprehensive Plan in order to facilitate the provision of affordable housing within the community and to provide additional evidence of Metro Title 7 compliance. **LOCATION:** Citywide. **ZONE:** N/A. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Policies 1, 2, 6 and 12; Statewide Planning Goals 1, 2 and 10; and Metro Functional Plan Titles 1, 7 and 8.

STAFF REPORT

Associate Planner Duane Roberts presented the staff report on behalf of the City. He noted that these are housekeeping amendments to the Housing Chapter of the Comprehensive Plan – there are no new affordable housing policies or implementation measures proposed. The purpose of the amendments is to update the Housing Chapter of the Comp Plan and to demonstrate Metro Title 7 compliance. Roberts highlighted the proposed amendments and asked the Commission to make a recommendation of approval to Council.

Commissioner Buehner asked if these amendments might be changed with the upcoming Comprehensive Plan update. Roberts did not foresee any major, mandatory changes to the Housing Chapter with the Comp Plan update.

Commissioner Meads asked about density bonuses. Roberts said that the Council considered density bonuses for affordable housing, but did not adopt the code.

Commissioner Meads asked about items mentioned in a letter from John Frewing (Exhibit A). Roberts answered that he responded to the letter. He said Frewing was not aware of the existing adopted Affordable Housing Program. With regard to ensuring that affordable housing is dispersed, Roberts noted that we have an agreement with Washington County about location of affordable housing.

Discussion was held on manufactured housing. It was noted that we are bound by state laws regarding placement of manufactured houses.

PUBLIC TESTIMONY

None

PUBLIC HEARING CLOSED

Commissioner Buehner moved to recommend approval to Council of CPA 2004-00002, based on findings in the staff report and discussion held during the public hearing. Commissioner Bienerth seconded the motion. The motion passed unanimously.

6. GOAL 5 WORKSHOP

Associate Planner Julia Hajduk handed out copies of a PowerPoint presentation (Exhibit B). She noted that the objective of Goal 5 is to improve the overall environmental health of the Tualatin River basin. She went over the presentation with the Commission, advising that we are now in step 3 of the action plan.

Hajduk advised that it has not been decided who will determine the 50% of mitigation. The concept will be presented at the public hearing. After that time, the Basin Partners will work on the details. She also advised that mitigation standards

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
August 24, 2004

The meeting was called to order at 6:30 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, Woodruff

- STUDY SESSION

The Council discussed what the hearing process would be relating to the LUBA remand.

- EXECUTIVE SESSION – Not needed

- STRATEGIC PLANNING

Mr. Monahan noted he had suggested several dates in his memo and asked Councilors to review their calendars to indicate when they were available for this planning session. Councilors Woodruff and Sherwood offered the use of their homes for the meeting.

- VOTERS PAMPHLET MEASURE ENDORSEMENT INFORMATION

Mr. Monahan noted the memo from Deputy City Recorder Jane McGarvin relating to submitting information for the Washington County Voter's Pamphlet.

- ADMINISTRATIVE ITEMS

- a. Calendar Review

- August 31: Potential City Council Meeting (Ballot Title?)
- September 14: City Council Business Meeting
- September 18: Tigard Blast/Citizens Fair
- September 21: City Council Workshop Meeting
- September 28: City Council Business Meeting

5. PUBLIC HEARING (LEGISLATIVE) TO CONSIDER AN ORDINANCE APPROVING COMPREHENSIVE PLAN AMENDMENT TO CHAPTER 6 (HOUSING)

- a. Mayor Dirksen opened the public hearing.
- b. Staff Report

Duane Roberts, Long Range Planning Staff, explained the proposed comprehensive plan amendment updates the Housing Chapter by incorporating references to various actions the City has taken in recent years to support affordable housing. It also reflects the requirements of Metro's Title 7 on Affordable Housing adopted three years ago, which required jurisdictions to consider a number of identified tools and strategies for encouraging affordable housing development. Metro's evaluation for Tigard identified several deficiencies in Tigard's comprehensive plan. These amendments address those deficiencies. The amendments include:

- Allowing manufactured homes in all zoning districts which is already in the development code and comprehensive plan;
- Establishing a fee subsidy program for affordable housing development which Council adopted two years ago. Staff also recommends a guideline be added that will give preferential treatment to projects that serve to disburse affordable housing within the community.
- Require the development of a property maintenance code which the City accomplished in the late 1990's but is not referred to in the comprehensive plan.
- Encourages residents to make use of Washington County's Administrative Home Repair funds.

The Planning Commission held a public hearing on the proposed amendments and voted to recommend Council approve the amendments without changes.

Mr. Roberts noted comments were received regarding the amendments from the following:

- The Department of Land Conservation and Development (DLCD) referred to outstanding items identified by Metro which are technical in nature and which the County is currently questioning. DLCD also suggested the City of Tigard consider including affordable housing in its downtown planning effort currently underway as affordable housing is not identified as part of the downtown plan.
- John Frewing submitted several comments and suggestions. He proposed disbursement of affordable housing throughout the City by dividing the city into quadrants and requiring each quadrant to have its share of affordable housing. Mr. Frewing suggested enforcement

would be by prohibiting development in a quadrant until an affordable housing project is proposed for that quadrant. Staff did not support that proposal as blocking housing development would not address the main obstacle to affordable housing, which is funding. This proposal would not provide funds for affordable housing projects. In addition, moratoriums are governed by state law and can only be imposed if state-defined essential services are in short supply; affordable housing is not on the list of essential services.

c. Public Testimony

- John Frewing, 7110 SW Lola Lane, Tigard, said his proposal would put some teeth in the City's comprehensive plan provisions to get some affordable housing projects. Each quadrant should have some affordable housing. He can recall only a couple of affordable housing projects in Tigard. One recent one is located in the Metzger area. He pointed out the affordable housing project located on Hall Boulevard recently had a sidewalk installed from it to Hwy. 99. The sidewalk, however, was built around utility poles and mailboxes located in the middle of the sidewalk. He did not feel the sidewalk met ADA requirements for accessibility and width.

Councilor Sherwood responded there are affordable housing located in almost all quadrants but are not well publicized. Housing Services of Washington County operates a number of units in Tigard, including The Colonies at the base of Bull Mountain, a project on Bonita Road, and they are looking at others. Affordable housing projects require huge subsidies. She sits on the Housing Authority Board, and they heard a report today indicating there are going to be more cutbacks in funding for affordable housing projects, Section 8, and many other areas. She did not feel that other housing projects should be put on hold while funding was found for affordable housing because of the amount of money that is needed for those projects is so huge.

Mr. Frewing asked if Tigard has considered a supplemental fee on other development that could raise funds for affordable housing projects.

Councilor Sherwood replied she has been a member of the Blue Ribbon Task Force for the past year, who has tried to come up with a way to develop a fee that would be used for affordable housing projects. The Task Force looked into a real estate transfer fee, but did not believe the fee would be approved because too many people were

opposed to it. Any type of fee would have to be approved at the state legislature. Right now, it looks like anything is several years away.

Mr. Frewing asked if the Task Force has looked at a system development charge (SDC) fee, similar to parks SDC's that could be used for affordable housing.

Tim Ramis, City Attorney, explained that the SDC's had to first be authorized by the state legislature before local jurisdictions could implement a SDC for using funds in a particular area, such as parks.

Mr. Frewing explained he was just trying to come up with some type of program that would fund affordable housing in Tigard.

Councilor Sherwood noted Tigard is one of the few cities in Washington County which has a fund (\$10,000) that is used to reduce fees for affordable housing programs. It is not much, but it helps those groups putting a project together.

Councilor Woodruff explained Councilor Sherwood had reviewed the work of the Blue Ribbon Task Force recently and the needs and how difficult it is to fund affordable housing programs. He asked Mr. Frewing if his comments on affordable housing conflicts with his discussion about density, as more people want less density, not more. Affordable housing will probably be denser.

Mr. Frewing responded that there will be people in the Bull Mountain area with two units per acre, but maybe they should pay a fee to enjoy that environment, so the rest of the City would have a higher density. In that way, both high and low density would be met. He would support some type of fee on new development, particularly on those developments with a low density that would be used for affordable housing.

- Lisa Hamilton-Treick, 13565 SW Beef Bend Road, unincorporated Bull Mountain, stated she is a real estate broker and is concerned about the lack of affordable housing throughout the whole tri-county area. Tigard is not unique in not having enough affordable housing. There was an article in Sunday's Oregonian about an arrangement to purchase property under a trust so people can own their home. It will take creative solutions to address affordable housing issues. She participated in Tigard's Visioning Task Force where affordable housing

was discussed. She is not clear what is meant by affordable housing; does that mean affordable rents or affordable prices, or both. Home ownership benefits those who have the opportunity to buy a home.

Councilor Sherwood responded that she has lots of information on both affordable rents and prices. The Blue Ribbon Task Force noted that the subsidies were huge to get just one family into a house, whether it was rented, purchased, or built. Habitat for Humanity and Washington County have both built affordable housing units. Many are not successful, because not many lower income families can qualify to buy a house and then maintain it. Most to the focus is for affordable housing to rent and finding programs to help those low income people to get into a unit. This issue was discussed at the Housing Authority Board meeting today.

Ms. Hamilton-Treick stated a situation came to her attention recently about some property in Tigard that had some management issues that would prohibit them from being a good investment for a number of people. Some homes can be purchased by people on limited means. Due to these management issues in these neighborhoods or properties, they are not available to first time home buyers.

Councilor Sherwood concurred that in some condominium or homeowner associations, the fees are so high, by the time people qualify for the condominium, the additional association fees makes the unit unaffordable.

Ms. Hamilton-Treick added that another issue is the rental- to owner-occupied ratios, where management has not paid close enough attention to those ratios, and have let them get so out of whack, that a person who normally would qualify for conventional financing is no longer available and would have to get more expensive private financing.

Councilor Woodruff asked Ms. Hamilton-Treick if she had seen the Blue Ribbon Task Force report presented at the August 17 Council Workshop. The report provided the best information about affordable housing he has seen and was based on different sized homes, income levels, and what the reasonable amount someone could afford based on their income.

Ms. Hamilton-Treick stated she generally has concerns about many of the formulas used to compute the information, but she will take another look at the report.

Councilor Sherwood noted the report included pretty recent data prepared by technical people. The Blue Ribbon Task Force wanted hard numbers, not pie in the sky numbers, and the Task Force felt the information was pretty accurate.

Ms. Hamilton-Treick noted another concern was that many affordable housing projects are built and retained by a builder/developer and then rented back to people on limited means, or investors buy up all the units and rent them back to those people on limited means. That becomes counter productive. She stated she hoped the City is aware of those situations and does whatever is legal and fair to minimize that from happening.

Councilor Sherwood stated there is not a lot the City can do. That has to be the responsibility of the owners or the condominium associations themselves.

- Henry Kane, 12007 SW Camden Lane, Beaverton, stated the Beaverton City Council recently passed an ordinance addressing affordable housing, but unfortunately the ordinance did not contain any teeth to enforce or impose financial liability. One concern he has is what is meant by median income. He stated that as Portland and Multnomah County imposes more fees and taxes, more people will move out of Multnomah County to Washington County. There will be a breaking point unless there is a moratorium on building. If there is going to be affordable or subsidized housing, how much is it going to cost.

Mr. Roberts indicated the proposed ordinance does not add any fees or taxes.

d. Staff recommendation.

Mr. Roberts stated the staff recommendation was for Council to adopt the proposed ordinance with attached amendments as written.

e. Council Discussion

Councilor Sherwood stated she had already made her comments with respect to making each quadrant do affordable housing. She noted that a lot of people in the County and non-profit agencies are doing what they can. She supports the change to the comprehensive plan.

Councilor Woodruff concurred the Planning Commission reviewed the proposal and unanimously supported the recommendations.

Councilor Wilson pointed out land costs increase development costs and commented that Tigard is on the list of being one of the least affordable communities in the nation. The area remains somewhat affordable because of the low interest rates. When interest rates rise, that will not be the case. He noted Metro requires jurisdictions to maintain a certain amount of buildable land supply, while at the same time requiring affordable housing is provided. He suggested the addition of another implementation strategy, possibly under 6.3, which would state: "The city shall encourage the maintenance of an adequate regional land supply for housing."

Council then discussed the addition of the appropriate wording and location in the Housing Goal.

Motion made by Councilor Wilson, seconded by Councilor Sherwood, TO ADD THE FOLLOWING LANGUAGE TO SECTION 6.1 AS ITEM NO. 11, "THE CITY SHALL ENCOURAGE THE MAINTENANCE OF A SUFFICIENT REGIONAL RESIDENTIAL LAND SUPPLY."

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Mayor Dirksen noted the City will be beginning its revision of the comprehensive plan in the near future, and this discussion made it clear to him how much this needs to be addressed, reviewed and changes made. He noted this action is a housekeeping measure to formally add Council policies adopted during the past couple of years on an informal basis into the Housing Goal to meet a Metro requirement. There will be other discussions in the future to review this goal again.

Motion was made by Councilor Sherwood, seconded by Councilor Wilson, TO APPROVE ORDINANCE 04-09, AN ORDINANCE AMENDING CHAPTER 6, HOUSING, VOLUME II OF THE TIGARD COMPREHENSIVE PLAN.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

6. PLANNED DEVELOPMENT COMMITTEE UPDATE

Dick Bewersdorff, Community Development, reported the Planned Development Committee has met three times and meets again September 7. The work plan is moving forward. There were several months when the Committee could not meet. The projection is to forward a recommendation for Planning Commission review and Council's approval.

Mayor Dirksen encouraged the committee to continue its work and he looks forward to their report and recommendation.

7. DARE SUMMER CAMP REPORT

Bill Dickenson, Police Chief, noted the Police Department has three primary responsibilities to carry out: 1) respond to emergencies and respond to calls for service; 2) investigate crimes that have occurred; and 3) carry out prevention and intervention programs. Chief Dickenson stated Tigard has an ongoing program of working with schools during their school year. The summer DARE program was developed to continue the work and involvement with students during the summer. He then introduced Community Service Officer Sheryl Huiras, who has operated and managed the DARE to be Great Summer Camp Program.

Officer Huiras explained the seventh year of DARE camp for kids was just completed. This year, the five weekly sessions were limited to 60 kids each as that are all one school bus will hold. In addition to the campers, 65 high school students volunteered as counselors and mentors. Both prospective campers and counselors had to be turned away because there was not enough room or funding to

Affordable Housing Fee Assistance Guidelines

1. Both for- and not-for-profit entities are eligible to apply for affordable housing fee assistance funds.
2. Eligible activities include affordable housing acquisition, development, and rehabilitation. Affordable housing acquisition and development will receive greater consideration than rehabilitation.
3. High consideration will be given to projects that facilitate the dispersal of affordable housing within the City.
4. The proposed project must be consistent with City housing policies and applicable planning and zoning standards.
5. Only units targeted to households earning at or below 50% of median income are eligible for City funds. Units targeted to households earning 60% of median income are eligible when the project includes an equal number of units serving households at or below 50% of median.
6. The organization guarantees that the housing produced or rehabilitated will maintain long-term affordability, with long-term defined as the longer of 25 years, or, if applicable, the life of any State or Federal loan used to finance the project.
7. The organization guarantees that the project will be enrolled in the City Enhanced Safety Program (ESP) and maintain ESP certification for the respective (a.) period of long-term affordability defined in guideline #5, or (b.) the life of the ESP program.
8. Council review and approval of each separate award will be required. This review will include an in-person presentation to Council by a representative of the organization making the request.
9. The time limit on the use of the funds is two years.
10. Applications for assistance will be accepted twice per year. Applications shall be submitted on forms provided by the City of Tigard.
11. The maximum amount available is \$500 per qualified unit, up to the current Social Services and Events Fund affordable housing set-aside line item balance.

AGENDA ITEM # 3.4a.
FOR AGENDA OF February 8, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award of Contract for the Construction of FY 2004-05 Storm Drainage Major Maintenance Program

PREPARED BY: Vannie Nguyen DEPT HEAD OK: Agustin P. Duenas CITY MGR OK: CP

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve the contract award for the construction of FY 2004-05 Storm Drainage Major Maintenance Program?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to **Paul Lambson Contracting** in the amount of **\$37,453.00**.

INFORMATION SUMMARY

The existing storm drainage system on 70th Avenue from 750 feet south of Taylors Ferry Road to 69th Avenue is under capacity. The relatively flat street and the limited number of catch basins are contributing factors for the storm water collection problem. Homes on the downhill side have experienced flooding on the street during heavy rain events and year-round ground water from adjacent springs causes unsightly algae buildup which is detrimental to the pavement surface.

This project proposes to install approximately 300 feet of storm drain pipe and three new catch basins. In addition, it proposes to upgrade three existing catch basins from standard CG-1 type to curb inlet CG-2 type to reduce runoff buildup due to accumulation of leaves on top of the catch basins. There is also a portion of curb and driveway damaged by tree uprooting preventing water from getting into an adjacent existing catch basin. The curb and driveway apron will be replaced thus allowing water to run into the basin.

This project was advertised for bids on January 4 and January 6, 2005 in the Daily Journal of Commerce and the Tigard Times respectively. An addendum was issued on January 12, 2005 for provision of current BOLI wage rates and clarification of design issues and bid quantities. The bid opening was conducted on January 18, 2005 and the bid results are:

Paul Lambson Contracting	Battleground, WA	\$37,453.00
D&D Concrete & Utilities	Tualatin, OR	\$38,350.00
Canby Excavating	Canby, OR	\$44,500.00
Western Underground	Warrenton, OR	\$45,507.00
Kerr Contractors	Woodburn, OR	\$46,309.00
Cipriano & Son	Boring, OR	\$49,799.50
Morgan Siteworks	Aloha, OR	\$50,985.87
Robinson Construction	Tigard, OR	\$57,640.00

Dunn Construction
Engineer's Estimate

Portland, OR

\$65,925.00
\$36,000

Based on the bids submitted, the lowest responsive bid of \$37,453.00 submitted by Paul Lambson Contracting appears to be reasonable. Staff recommends approval of the contract award to this qualified lowest bidder.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

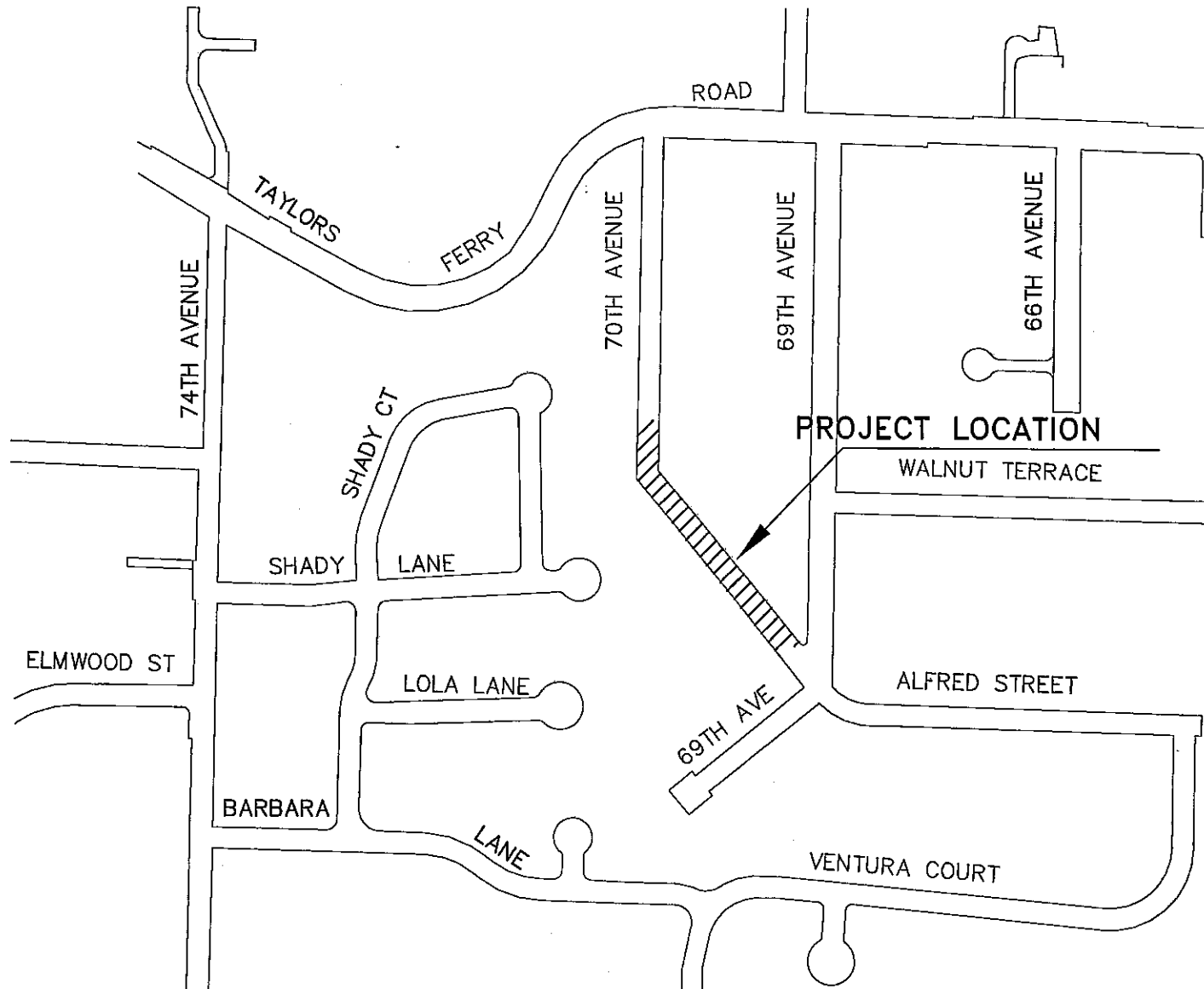
ATTACHMENT LIST

Project location map

FISCAL NOTES

This project is funded in the amount of \$100,000 in the FY 2004-05 CIP Storm Sewer Fund. This amount is sufficient to award the contract of \$37,453.00 to Paul Lambson Contracting.

**FY 2004-05 SDMM
70TH AVENUE
750' SOUTH OF TAYLORS FERRY ROAD TO 69TH AVE**



AGENDA ITEM # 3.4b.
FOR AGENDA OF February 8, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE AUTHORIZE THE PURCHASE OF NEW POLICE PORTABLE RADIOS
USING A STATE OF OREGON PRICE AGREEMENT.

PREPARED BY: Joe Barrett DEPT HEAD OK *[Signature]* CITY MGR OK *CR*

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board authorize the purchase of new portable radios for Police Department use?

STAFF RECOMMENDATION

Authorize the purchase of twenty new portable radios utilizing the pricing available to the City through an existing State of Oregon contract.

INFORMATION SUMMARY

The Police Department's current 800mhz portable radios, used by all sworn personnel, are outdated, do not have necessary new digital technology, and will no longer supported by Motorola (production ceased in 2004).

In addition to the proposed new radios being an upgrade over the standard features of the Department's current radios, the replacement radios will be capable of "SmartZone" technology, allowing the user to seamlessly roam between different regions. This new technology is becoming the communication standard for emergency service providers, and will increase the overall effectiveness in cooperation with other emergency service agencies throughout the state.

The replacement radios are available through State Contract #4018 which the City is eligible to access through its membership in the Oregon Cooperative Purchasing Program (ORCPP). The replacement radios have been approved by the Washington County Consolidated Communications Agency (WCCCA) and will therefore be maintained by them when problems may arise. The funding for this purchase will be completely reimbursed by the FY '04 Homeland Security Grant that was awarded to Tigard Police in the Spring of 2004."

OTHER ALTERNATIVES CONSIDERED

Do not authorize the purchase of the radios.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

None.

FISCAL NOTES

The cost of the twenty radios will be \$66,273. Through Budget Amendment #3, the appropriate funds for this purchase were moved from contingency to the Police Department's budget to cover the cost of this purchase. The City will be reimbursed for all costs associated with this purchase from the 2004 Law Enforcement Terrorism Prevention Program Grant.

Council meeting material for the following Agenda item will be submitted to Council in its newsletter mail envelope on Friday, February 4, 2005.

- 3.5 Reappoint Bob Rohlf to the Washington County Consolidated Communications Agency Budget Committee – Resolution No. 05-____

AGENDA ITEM # 4
FOR AGENDA OF February 8, 2005

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Adopt 2005 Tigard City Council Goals

PREPARED BY: Craig Prosser cl DEPT HEAD OK cl CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

Consider the proposed list of 2005 Tigard City Council Goals.

STAFF RECOMMENDATION

Review and revise, if needed, the attached Tigard City Council Goals for 2005. Adopt the final list and direct staff to identify projects and work programs for each goal.

INFORMATION SUMMARY

The Tigard City Council met on January 18, 2005, to review the status of the 2004 goals and develop new goals for 2005. On January 24, 2005, Council met with staff members to review the goal list and discuss with staff the principles that overlay all of the specific actions taken to achieve the goals. Once the 2005 goal list is approved, staff will prepare work programs for tasks in each goal area and submit these work programs to Council for review and approval.

OTHER ALTERNATIVES CONSIDERED

Revise the goal list.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The Tigard Beyond Tomorrow Visioning Program served as the underlying framework for 2005 Council goal development.

ATTACHMENT LIST

Draft Tigard City Council Goals - 2005

FISCAL NOTES

Financial implications for implementation of each goal will be identified in the work programs staff will develop for each of the tasks identified under each goal area.

Tigard City Council Goals – 2005

Preamble

The City Council's focus for 2005 is to address three key areas. Overlaying specific actions taken in each of these areas is a commitment to:

- ***Seek more community Involvement***
 - ***Tie actions to the Vision Task Force goals and strategies***
 - ***Enhance the appearance of the City***
 - ***Measure results***
-

1. Revitalize Downtown

- Complete and implement the Downtown Plan
- Urban renewal implementation
 - Public relations plan and vote
- Identify and begin projects

2. Improve 99W

- Identify specific projects to alleviate congestion on 99W
- Prioritize projects/funding
- Leverage additional funding

3. Address Growth

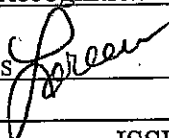
- Revise Comprehensive Plan for Tigard and, if funded, for Bull Mountain
- Metro – seek changes
- Identify and acquire Parks and Open Space
- Review growth of expenditures and revenue
- Graphic identify (branding)
 - Signage
 - Logo
 - Stationery

Upon formal adoption of the goals by City Council, staff will prepare work programs that include timelines, communication plans, and performance measures.

AGENDA ITEM # 5
FOR AGENDA OF 2/8/05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Recognition of Centrex Construction

PREPARED BY: Loreen Mills  DEPT HEAD OK _____ CITY MGR OK cl

ISSUE BEFORE THE COUNCIL

Recognize the contribution of Centrex Construction Inc., the Tigard-based contractor who completed the remodel on the Permit Center and City Hall.

STAFF RECOMMENDATION

Approve the resolution acknowledging Tigard-based Centrex's contribution to our community.

INFORMATION SUMMARY

As part of the Library bond measure process, the City assured citizens that the old Library and City Hall buildings would be remodeled with funds outside of the Library Bond to accommodate the programming needs of the administrative departments of the City for the next 10 years.

Centrex Construction Inc. was the low bidder for the remodel construction of the Permit Center (old library) and City Hall buildings last August.

The City wishes to recognize the contribution Centrex Construction has made while managing the remodel. It was clear from the start that Centrex took pride in its community and they were excited about doing this project for their City. Centrex not only provided excellent quality workmanship, they also remodeled portions of the project with staff and citizens using the buildings during construction. Centrex made sure citizens had access to City Hall and the Police Department throughout the project. They also provided cost saving recommendations during the project. While many contractors just do the job, Centrex took the time to make sure the project was working well day-to-day for staff and citizens. It has been an honor to have a Tigard-based firm like Centrex work on the remodel of the Permit Center and City Hall.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

The vision identifies "adequate facilities are available for efficient delivery of life-long learning and programs and services for all ages." That goal identified by Tigard's citizens resulted in the construction of a new library. At the time the new library bond was passed by Tigard voters, the City made the commitment that the old Library and

City Hall buildings would be remodeled to accommodate the programming needs of the administrative departments of the City for the next 10 years.

ATTACHMENT LIST

Resolution acknowledging the contributions of Centrex Construction, Inc.

FISCAL NOTES

Funds were budgeted in the 2004-05 FY budget. A complete project update will be provided to City Council within the next few weeks.

CITY OF TIGARD, OREGON

RESOLUTION NO. 05-_____

A RESOLUTION RECOGNIZING CENTREX CONSTRUCTION INC. FOR THEIR CONTRIBUTIONS TO THE CITY OF TIGARD CITIZENS.

WHEREAS, Centrex Construction Inc. submitted the low bid and was awarded a contract to remodel construction of the City Hall and Permit Center buildings; and

WHEREAS, the City was able to continue its practice of supporting local businesses in Tigard by awarding the bid to Centrex; and

WHEREAS, Centrex provided excellent quality workmanship and managed the project with staff and citizens using portions of the buildings during the construction without injury to people to loss of property; and

WHEREAS, Centrex staff and sub-contractors were professional and courteous at all times to the public and staff during the project; and

WHEREAS, the remodeled buildings provide easier user-friendly access to Tigard citizens and businesses.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City Council acknowledges the successful completion of the remodel construction of the City Hall and Permit Center buildings and commends Centrex Construction Incorporated for their commitment to keep City services open and available to citizens and businesses while providing excellent quality construction practices.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This 8th day of February 2005.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

**CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY**

ISSUE/AGENDA TITLE: SW Frewing Street at SW Pacific Highway and SW Pfaffle at SW 79th Avenue public sewer easement vacations. (VAC2004-00002).

PREPARED BY: Morgan Tracy ME 7 **DEPT HEAD OK** yes for JPH **CITY MGR OK** cl

ISSUES BEFORE THE COUNCIL

Should the City Council vacate an approximate 1,248 square foot public sewer easement located at SW Frewing and SW Pacific Highway?

Should the City Council vacate an approximate 476 square foot portion of a 1,429 square foot public sewer easement located at SW Pfaffle and SW 79th Avenue.

STAFF RECOMMENDATION

It is recommended that the City Council approve the two requested easement vacations.

INFORMATION SUMMARY

In the City vacation process there are two ways of initiating the vacation of streets, easements and other public dedicated areas. An applicant may file a vacation petition with the City Council, which initiates a vacation by passing a Resolution to schedule a formal public hearing to consider such requests. The second option is for an applicant to file a petition with the Planning Commission requesting a vacation. The Council initiated the vacation proceedings on January 11th, 2005.

This application is a combined request to initiate two separate public utility easement vacations. The applicants have combined their requests to expedite the process in one combined package, and to share costs associated with the vacation process. The first easement (Massih) is on property located at the southeast corner of SW Frewing Street and SW Pacific Highway (see Attachment 3). The property was recently approved for commercial development (case file number SDR2004-00001). An existing sewer easement is located under the middle of the proposed new building. This easement serves the parcel to the north. The applicant has recorded a realigned sewer easement around the proposed building and will construct a new line in the new location as part of the development.

The second easement (Martindale) is located at the northwest corner of SW Pfaffle Street and SW 79th Avenue (see Attachment 3). The lot was recently partitioned (case file number MLP 2004-00003). The easement at this location was established as a 15-foot-wide sewer easement. Current City standards only require a 10-foot-wide easement for sewer service. The applicant has requested that a 5-foot-wide portion of the present 15-foot-wide sewer easement be vacated. The resulting 10-foot-wide easement will be adequate for City maintenance

requirements, and furthermore, the applicant has proposed constructing the new sewer line with modern materials to minimize the need for future maintenance.

If the Council approves the vacation requests, the approved developments may proceed, and properly aligned public sewer utility easements will be established.

OTHER ALTERNATIVES CONSIDERED

Deny one or both of the vacation requests.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Not applicable.

ATTACHMENT LIST

Attachment 1: **Proposed Ordinance (Massih-Frewing at Pacific Highway)**
Resolution 05-01 Initiating the vacation proceedings
Exhibit A: Legal Descriptions
Exhibit B: Site Plan

Attachment 2: **Proposed Ordinance (Martindale-Pfaffle at 79th)**
Resolution 05-02 Initiating the vacation proceedings
Exhibit C: Legal Descriptions
Exhibit D: Site Plan

Attachment 3: **Vicinity Map**

FISCAL NOTES

There are no direct fiscal impacts as a result of this request as all fees will be paid by the applicant from their deposit.

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-

AN ORDINANCE CONCERNING THE VACATION OF A PUBLIC SEWER UTILITY EASEMENT OF APPROXIMATELY 1,248 SQUARE FEET LOCATED AT SW FREWING STREET AT SW PACIFIC HIGHWAY, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2004-00002).

WHEREAS, the Tigard City Council initiated this vacation request pursuant to Section 15.08.040 of the Tigard Municipal Code on January 11th, 2005, and has been recommended by the Community Development Department; and

WHEREAS, the approximate 1,248 square foot public sewer easement had previously been granted to the public; and

WHEREAS, the applicant has requested that the City of Tigard vacate this public sewer easement as described in **Exhibit A** and shown in **Exhibit B** located on property better known as 9965 SW Frewing; and

WHEREAS, the said sewer utility easement, or portions thereof, are not necessary to advance the public health, safety or welfare, in consideration of realigned easement and reconstructed sewer line using modern materials; and

WHEREAS, all affected service providers, including utility companies and emergency service providers, have been given the opportunity to review the vacation proposal and have provided no objections; and

WHEREAS, notice has been mailed to all property owners abutting said vacation area and all owners in the affected area, as described by ORS 271.080; and

WHEREAS, in accordance with Tigard Municipal Code 15.08.120, notice of the public hearing was posted in the area to be vacated and published in the newspaper; and

WHEREAS, the property owners of the majority of the area affected have not objected in writing; and

WHEREAS, the City Council having considered the request on February 8, 2005, finds that it is in the public interest to approve the request to vacate said public sewer easement as the public interest will not be prejudiced by this vacation, as provided by ORS 271.120 and TMC Section 15.08.130; and

WHEREAS, the vacation of said public sewer easement is necessary to construct the approved improvements on the subject site.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby orders the vacation of said 1,248 square foot portion of public right-of-way as shown and described in the attached **Exhibits "A" and "B"** (legal descriptions and maps of the areas to be vacated), and by this reference, made part thereof.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2005.

City Recorder – City of Tigard

APPROVED: By Tigard City Council this _____ day of _____, 2005.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

CITY OF TIGARD, OREGON

RESOLUTION NO. 05- 01

A RESOLUTION INITIATING VACATION PROCEEDINGS FOR A PUBLIC SEWER UTILITY EASEMENT OF APPROXIMATELY 1,248 SQUARE FEET LOCATED AT SW FREWING STREET @ SW PACIFIC HIGHWAY (VAC2004-00002).

WHEREAS, the public sewer utility easement of approximately 1,248 square feet had previously been dedicated to the public; and

WHEREAS, the applicant has requested that the City of Tigard initiate vacation proceedings to vacate the 1,248 square foot sewer utility easement in exchange for a relocated sewer easement and reconstructed sewer line, as described and shown in Exhibits "A" and "B"; and

WHEREAS, the said sewer utility easement, or portions thereof, are not necessary to advance the public health, safety or welfare, in consideration of realigned easement and reconstructed sewer line using modern materials; and

WHEREAS, the Tigard City Council finds it appropriate to initiate vacation proceedings for the requested public utility easement.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby initiates a request for the vacation of an approximately 1,248 square foot sewer utility easement in exchange for a relocated sewer easement and reconstructed sewer line, as described and shown in Exhibits "A" and "B" and by reference, made a part hereof.

SECTION 2: A public hearing is hereby called to be held by the City Council on February 8, 2005 at 7:30 PM in the Town Hall at Tigard City Hall, 13125 SW Hall Boulevard, within the City of Tigard, at which time and place the Council will hear any objections thereto and any interested person may appear and be heard for or against the proposed vacation of said public utility easements.

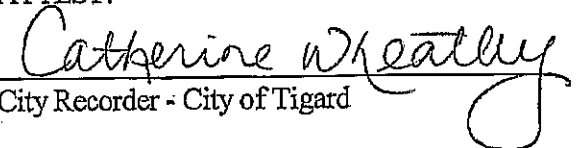
SECTION 4: This resolution is effective immediately upon passage.

PASSED: This 11th day of January 2005.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

LEGAL DESCRIPTION
VACATE SANITARY SEWER EASEMENT
MASSIH PROPERTY

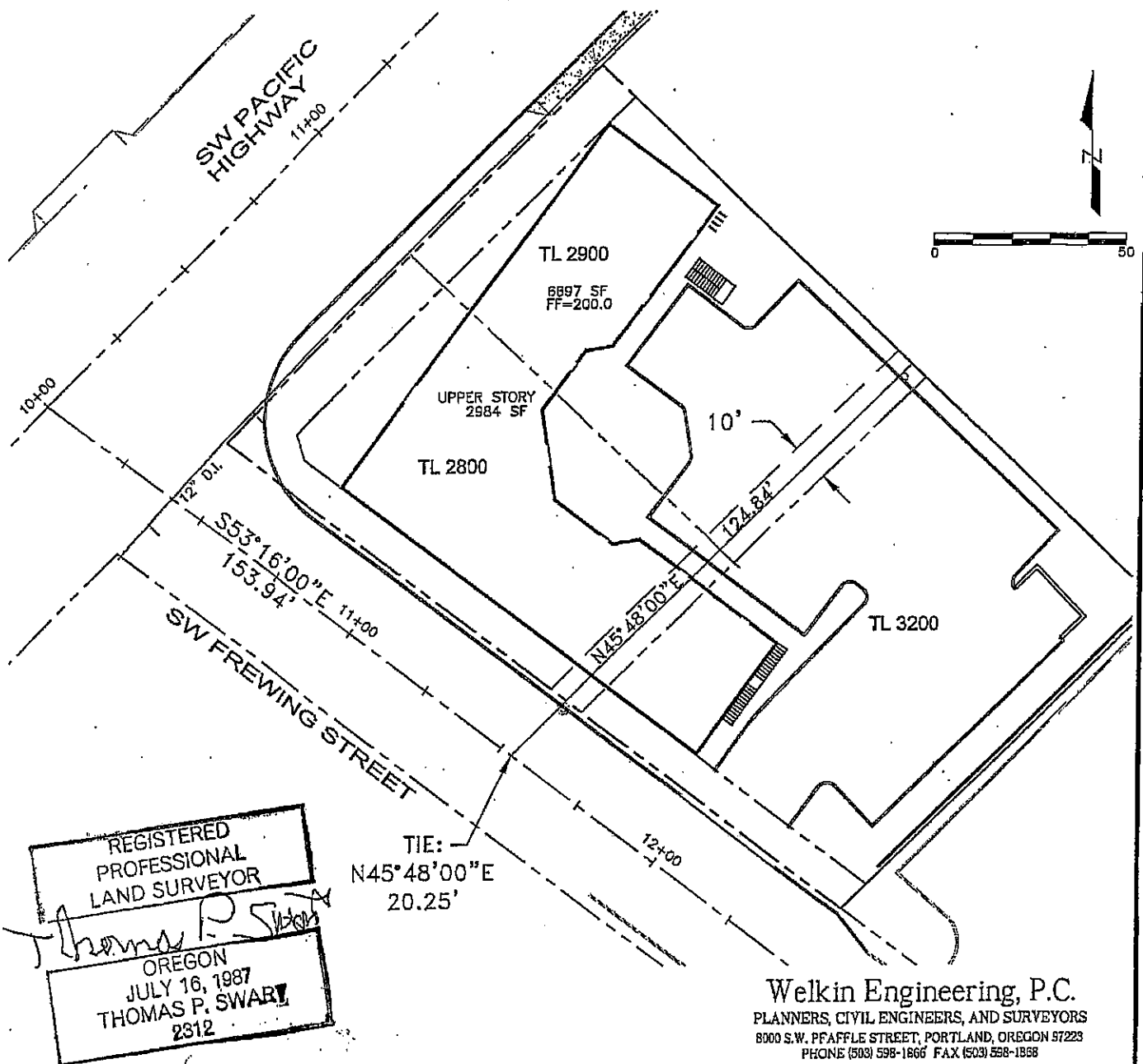
The following described real property situated in the State of Oregon, County of Washington, City of Tigard being a portion of Lot 21, Frewing Orchard Tracts, situated in the Northwest quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian;

An easement for sanitary sewer, 10.00 feet in width, the center of which is described as follows; Beginning at a 5/8" iron bar marked "O.D.O.T" in the centerline of Pacific Highway and running thence North 45° 39' 01" East along said centerline a distance of 205.24 feet to it's intersection with the centerline of S.W. Frewing Street; Thence South 53° 16' 00" East along said centerline a distance of 153.94 feet; Thence North 45° 48' 00" East a distance of 20.25 feet to the true point of beginning of the tract herein described; Thence North 45° 48' 00" East, a distance of 124.84 feet to the end of this easement.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Thomas P. Swart

OREGON
JULY 16, 1987
THOMAS P. SWART
2312



CITY OF TIGARD, OREGON

ORDINANCE NO. 05-

AN ORDINANCE CONCERNING THE VACATION OF A PUBLIC SEWER UTILITY EASEMENT OF APPROXIMATELY 476 SQUARE FEET LOCATED AT SW PFAFFLE STREET AT SW 79th AVENUE, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2004-00002).

WHEREAS, the Tigard City Council initiated this vacation request pursuant to Section 15.08.040 of the Tigard Municipal Code on January 11th, 2005, and has been recommended by the Community Development Department; and

WHEREAS, the approximate 1,429 square foot public sewer easement had previously been granted to the public; and

WHEREAS, the applicant has requested that the City of Tigard vacate a 476 square foot portion of the 1,429 square foot sewer utility easement by reducing its width to the City's minimum standard of 10 feet from its present 15 foot width, as described in **Exhibit C** and shown in **Exhibit D** located on property better known as 7935 SW Pfaffle; and

WHEREAS, the said sewer utility easement, or portions thereof, are not necessary to advance the public health, safety or welfare, in consideration of realigned easement and reconstructed sewer line using modern materials; and

WHEREAS, all affected service providers, including utility companies and emergency service providers, have been given the opportunity to review the vacation proposal and have provided no objections; and

WHEREAS, notice has been mailed to all property owners abutting said vacation area and all owners in the affected area, as described by ORS 271.080; and

WHEREAS, in accordance with Tigard Municipal Code 15.08.120, notice of the public hearing was posted in the area to be vacated and published in the newspaper; and

WHEREAS, the property owners of the majority of the area affected have not objected in writing; and

WHEREAS, the City Council having considered the request on February 8, 2005, finds that it is in the public interest to approve the request to vacate said portion of the public sewer easement as the public interest will not be prejudiced by this vacation, as provided by ORS 271.120 and TMC Section 15.08.130.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby orders the vacation of said 476 square foot portion of public right-of-way as shown and described in the attached **Exhibits "C" and "D"** (legal descriptions and maps of the areas to be vacated), and by this reference, made part thereof.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2005.

City Recorder – City of Tigard

APPROVED: By Tigard City Council this _____ day of _____, 2005.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

CITY OF TIGARD, OREGON

RESOLUTION NO. 05- 02

A RESOLUTION INITIATING VACATION PROCEEDINGS FOR A PUBLIC SEWER UTILITY EASEMENT OF APPROXIMATELY 476 SQUARE FEET LOCATED AT SW PFAFFLE STREET @ SW 79th AVENUE (VAC2004-00002).

WHEREAS, the public sewer utility easement of approximately 1,429 square feet had previously been dedicated to the public; and

WHEREAS, the applicants have requested that the City of Tigard initiate vacation proceedings to vacate a 476 square foot portion of the 1,429 square foot sewer utility easement by reducing its width to the City's minimum standard of 10 feet from its present 15 foot width, as described and shown in Exhibits "C" and "D"; and

WHEREAS, the said sewer utility easement, or portions thereof, are not necessary to advance the public health, safety or welfare, in consideration of realigned easement and reconstructed sewer line using modern materials; and

WHEREAS, the Tigard City Council finds it appropriate to initiate vacation proceedings for the requested public utility easement.

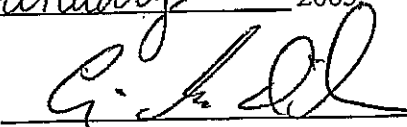
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Tigard City Council hereby initiates a request for the vacation of an approximately 476 square foot portion of a 1,429 square foot sewer utility easement by reducing its width to the City's minimum standard of 10 feet from its present 15 foot width, as described and shown in Exhibits "C" and "D" and by reference, made a part hereof.

SECTION 2: A public hearing is hereby called to be held by the City Council on February 8, 2005 at 7:30 PM in the Town Hall at Tigard City Hall, 13125 SW Hall Boulevard, within the City of Tigard, at which time and place the Council will hear any objections thereto and any interested person may appear and be heard for or against the proposed vacation of said public utility easements.

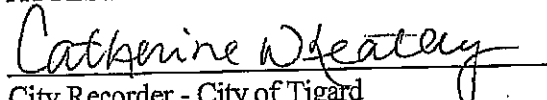
SECTION 4: This resolution is effective immediately upon passage.

PASSED: This 11th day of January 2005



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

RESOLUTION NO. 05- 02

EXHIBIT C

ZTec Engineers, Inc.
Civil ♦ Structural ♦ Surveying

John McL. Middleton P.E.

Chris Fischborn P.L.S.

Ronald b. Sellards P.E.

3737 SE 8th Avenue
Portland, Oregon 97202
503-235-8795 – Fax 503-233-7889
Email: chris@ztecengineers.com

October 21, 2004

VACATION OF A 5 FEET WIDE PORTION OF A SEWER EASEMENT

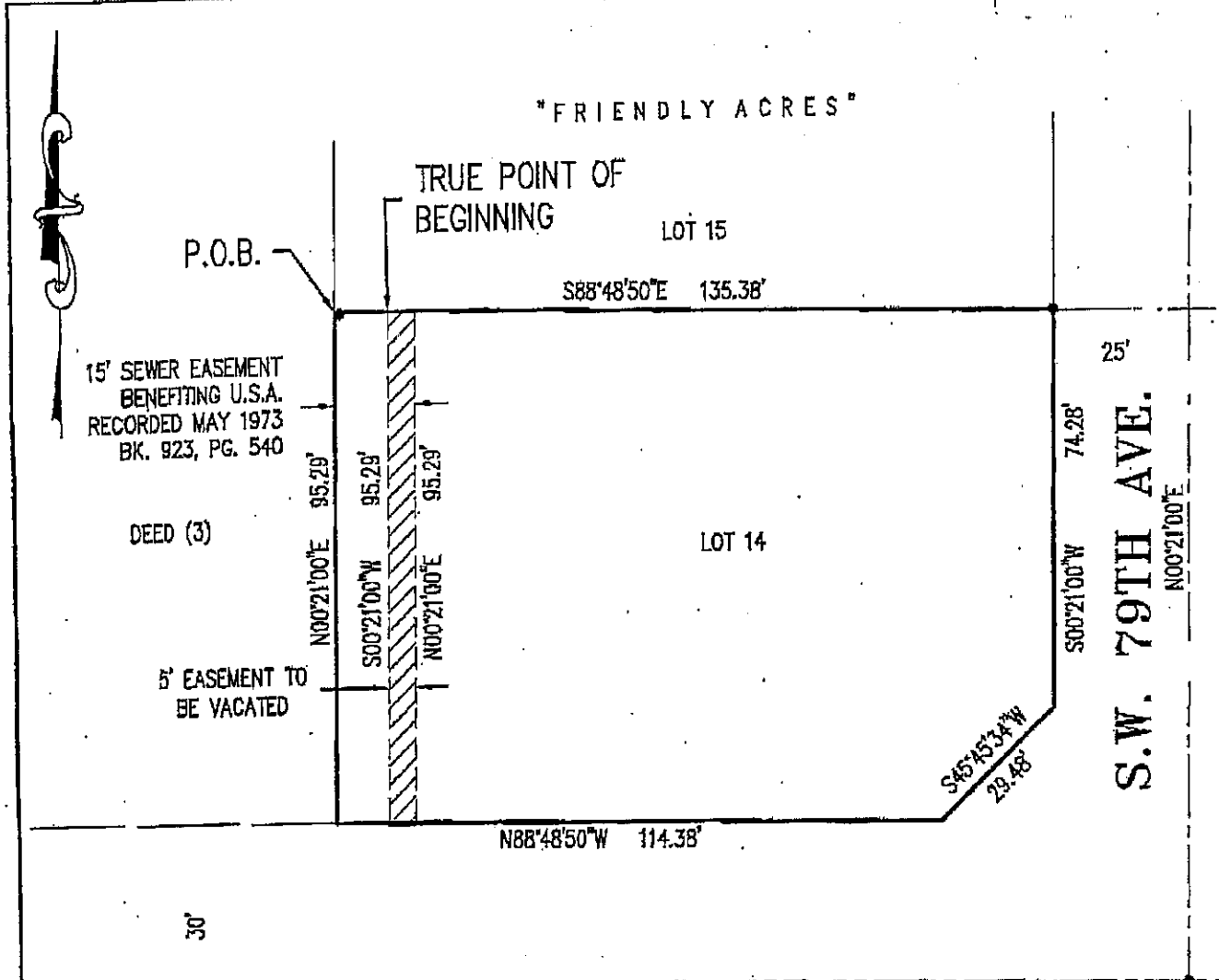
A parcel of land, being a part of Lot 14 of the recorded Plat of Friendly Acres, located in the Southwest one-quarter of Section 36, Township 1 South, Range 1 West, of the Willamette Meridian, in the City of Tigard, Washington County, Oregon. Said parcel of land also being the Easterly 5.00 feet of a 15.00 foot wide Sewer Easement, benefiting the United Sewerage Agency and recorded in May of 1973 in Book 923, Page 540, Washington County deed records, and more particularly described as follows:

Beginning at the Northwest corner of said Lot 14, thence South 88°48'50" East, along the Northerly line of said Lot 14 to a point that is 10.00 feet Easterly of when measured at right angles to the Westerly line of said Lot 14, said point being the true point of beginning of the parcel of land herein described.

Thence South 00°21'00" West, parallel with and 10.00 feet Easterly of said Westerly line a distance of 95.29 feet to a point on the Northerly right of way line of said SW Pfaffle Street (Washington County Road No. 975); thence South 88°48'50" East along said Northerly right of way line a distance of 5.00 feet to a point that is 15.00 feet Easterly of when measured at right angles to the Westerly line of said lot 14; thence North 00°21'00" East, parallel with the Westerly line of said Lot 14, a distance of 95.29 feet, to a point on the Northerly line of said Lot 14; thence North 88°48'50" West along said Northerly line a distance of 5.00 feet to the true point of beginning.

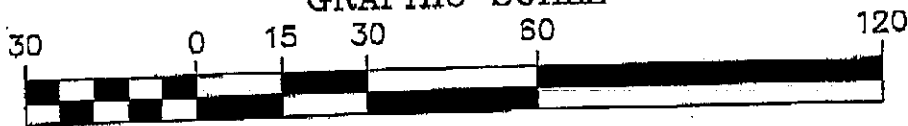
Said Easement area contains an area of 476.45 square feet more or less.

EXHIBIT D



S.W. PFAFFLE STREET
(CO. RD. NO. 975)

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

TITLE: **EASEMENT EXHIBIT**

DATE: 10-21-04

PLOT DATE: 10-21-04

DWG BY: JHH

CHK BY: JM

SHEET: 1 OF 1

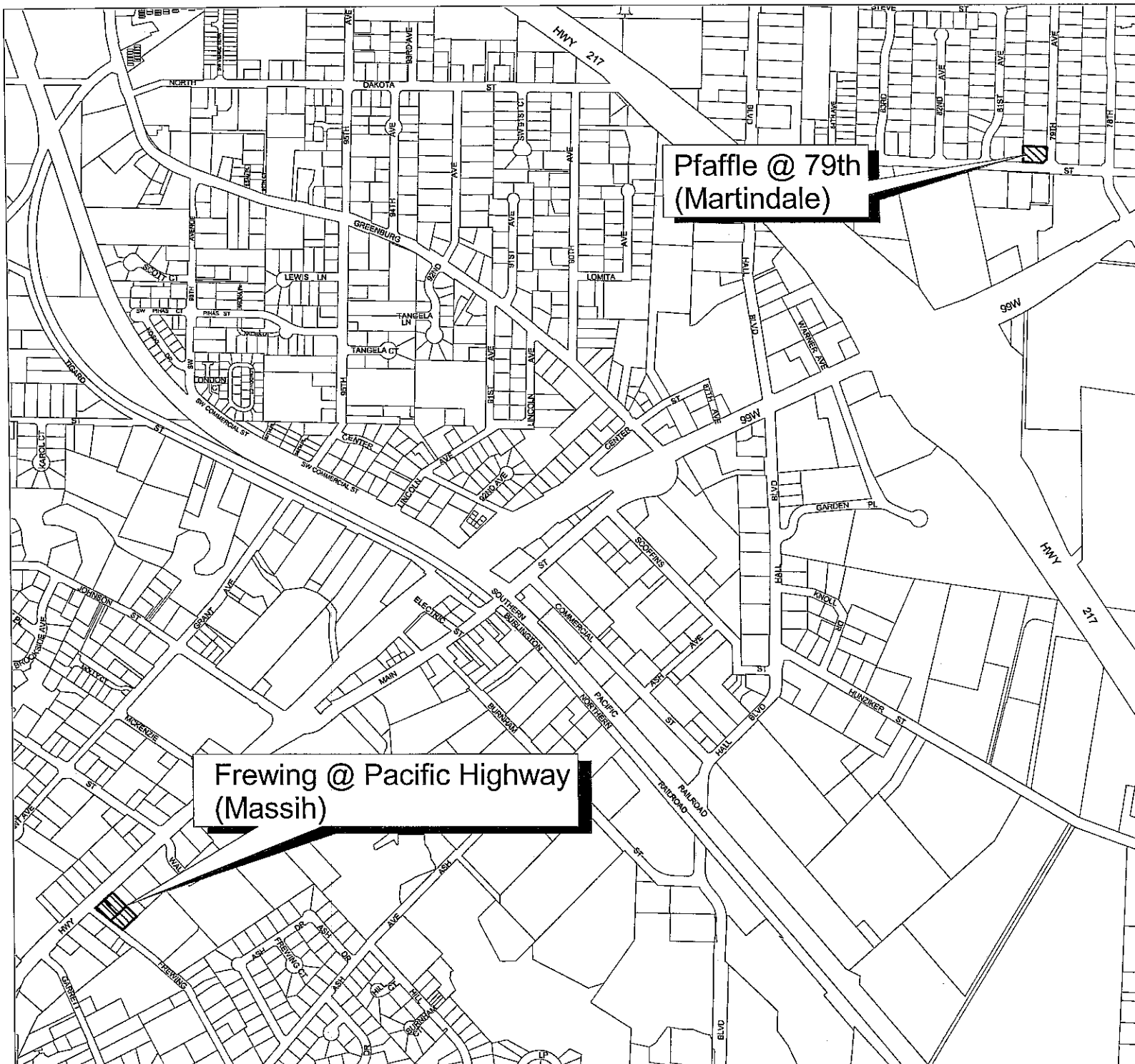
FILE: L31791EXH

ZTec ENGINEERS, INC.

3737 S.E. 8TH AVE.
PORTLAND, OREGON 97202
(503) 235-8795

CLIENT: CONTROL CONTRACTORS

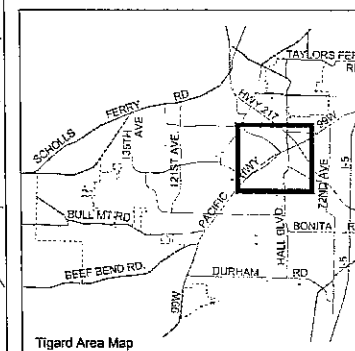
Sam Martindale
** TOTAL PAGE.003 **



CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

VICINITY MAP VAC 2004-00002



Tigard Area Map



0 400 800 1200 Feet

1" = 800 feet



Information on this map is for general location only and
should be verified with the Development Services Division.
13125 SW Hall Blvd
Tigard, OR 97223
(503) 639-4171
<http://www.ci.tigard.or.us>

Agenda Item No. 7

Meeting of 2.8.05
Set over from 12.28.04

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Public Works Department: Mission/Values Exercise Results

PREPARED BY: Brian Rager DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

The Public Works staff will report as to the results of a recent exercise conducted with the department.

STAFF RECOMMENDATION

No action required. Information only.

INFORMATION SUMMARY

The Public Works department has gone through some personnel changes over the last year, including changes in management staff. In addition, the department identified some key concerns related to the internal culture and environment and was seeking a process that would help to bring about a positive change. It was also a good time to evaluate how the external customers of the department view the service provided.

During the summer of 2004, the department began a process referred to as the Mission & Values Exercise. This process involved all Public Works staff and began with a department-wide setting where Staff (management and non-management) were mixed into six different discussion groups. These groups were facilitated by staff from other departments. The result of these group discussions, as well as follow-up discussions with Staff, is a new Mission Statement, Slogan and a set of Core Values for the Public Works Department.

OTHER ALTERNATIVES CONSIDERED

n/a

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

n/a

ATTACHMENT LIST

PowerPoint Presentation

FISCAL NOTES

Only minor printing costs for business cards, wall-mounted displays and door decals.

Public Works Department

Mission & Values Exercise Results

A wise business man once said...

- "If you run your business this year the way you ran your business last year, you will not be in business next year."

Public Works: Mission & Values Exercise

2

Issues in Public Works:

- Changes in personnel
- Concern with internal culture: How do we treat each other?
- Concern with Customer Service: How are we doing?

Good opportunity to ask ourselves what we value and what our mission should be.

Public Works: Mission & Values Exercise

3

Mission & Values Exercise:

- Department-wide kickoff on June 29, 2004.
- Discussion groups included all staff.
- Facilitators recruited from other departments.
 - Non-biased help
 - Allowed supervisor/management staff to be mixed in the groups.

Public Works: Mission & Values Exercise

4

Mission & Values Exercise:

- We asked three primary questions:
 - "What are the most important things you value in the work environment?"
 - "What do you see as the Department mission?"
 - "How do you want to be treated by your coworkers?"

Public Works: Mission & Values Exercise

5

Discussion Results: Values

- | | |
|------------|---------------------------|
| ■ Safety | ■ Support from Management |
| ■ Respect | ■ Leadership |
| ■ Honesty | ■ Professionalism |
| ■ Humor | ■ Quality Training |
| ■ Laughter | ■ Fairness to All |
| ■ Trust | ■ Teamwork |

Public Works: Mission & Values Exercise

6

Discussion Results: Mission

- Provide good, courteous, prompt service.
- Go the extra mile.
- Operate professionally.
- Provide a high-quality product.
- Maintain the City Infrastructure to the best of our ability.

Public Works: Mission & Values Exercise

7

Discussion Results: Treatment

- Respect
- Treat others as you want to be treated.
- Fairness to all
- Be friendly to one another.
- Be consistent
- Be trustworthy.
- Deal with individual problems; do not punish the whole group.

Public Works: Mission & Values Exercise

8

Follow Up to Discussion

- Management staff developed drafts of Mission Statement, Slogan and list of Values.
- Managers met with each division to review drafts.
- Final All-Staff meeting on September 30, 2004
 - Final comments and changes
 - Celebration luncheon

Public Works: Mission & Values Exercise

9

Public Works Mission Statement

"The Public Works Department proudly provides stewardship over the City's water, sanitary sewer, storm drainage, streets, fleet, buildings, and parks services in a safe, efficient, courteous and professional manner."

Public Works: Mission & Values Exercise

10

Public Works Slogan

"Taking care of the community"

Public Works: Mission & Values Exercise

11

Public Works Core Values

Professionalism
Respect
Integrity
Dedication
Enthusiasm

Public Works: Mission & Values Exercise

12

Other Follow Up

- Public Works customer satisfaction survey.
 - Proposed for introduction after January 1, 2005.
- New clothing policy.

Public Works: Mission & Values Examples

13

Next Steps:

- Slogan on PW business cards
- Slogan on door decals
- Make Mission Statement, Slogan and Core Values visible.
- Conduct our business in accordance with our Mission and Core Values.
- Mission and Values will become part of performance reviews.
- Review Mission & Values biannually.

Public Works: Mission & Values Examples

14

Slogan: Door Decal Example



Public Works: Mission & Values Examples

15

AGENDA ITEM # 8
FOR AGENDA OF 2.8.05

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Ash Creek Estates Subdivision – LUBA Remand

PREPARED BY: Morgan Tracy ME7 DEPT HEAD OK [Signature] CITY MGR OK CP

ISSUE BEFORE THE COUNCIL

Consider additional findings and analysis for the Ash Creek Estates Planned Development for the four items on remand from the Land Use Board of Appeals. The Council may either accept the findings and analysis prepared by the applicant and reviewed by staff thereby affirming the previous subdivision approval, modify the findings based on the evidence and testimony received and either affirm or overturn the previous approval, or determine that the criteria for approval are not met and prepare findings to deny the request and overturn the previous subdivision approval.

STAFF RECOMMENDATION

Direct staff to prepare a final order for Council's next meeting to adopt the additional findings in support of the approval for the Ash Creek Estates Planned Development.

INFORMATION SUMMARY

Ash Creek Estates is a proposed 29 lot subdivision on 9.36 acres located at 9750 SW 74th Avenue. On July 7, 2003, the Tigard Planning Commission held a public hearing to consider the application.

The Planning Commission moved to deny the application, which failed in a 4-4 tie vote. The Commission then moved to approve the application, which also failed in a 4-4 tie vote. Based on the Commission's by-laws and Robert's Rules of Order, without a majority affirmative vote, the application was denied. Since no motion was approved, no findings in support or against the application were adopted.

The applicant, Dale Richards of Windwood Homes, filed an appeal of the application denial on July 15, 2003. The City Council held a public hearing, *de novo*, on the appeal on August 12, 2003, but did not have sufficient time to receive testimony from all interested parties. The public hearing was continued to the September 9, 2003 Council meeting to complete the public hearing and render their decision. After that hearing closed, Council members indicated that they were persuaded the requirements of the Development Code had been met and approved a motion for tentative decision for approval of the application. Council directed the applicant to provide the written findings for this decision for final Council consideration at its October 28, 2003 meeting. The applicant submitted findings along with modified conditions of approval to support the decision. The Council met one final time on November 4, 2003 to adopt a corrected resolution approving the Ash Creek Estates proposal.

On November 25, 2003, an appeal of Council's decision was filed with the Land Use Board of Appeals (LUBA). LUBA issued their Final Opinion and Order on August 20, 2004. In that Order, LUBA considered 25 assignments

and sub assignments of error, and remanded the decision back to the City for additional review and findings on four specific sub-assignments of error. Essentially, LUBA accepted the vast majority of the City's approval, but found that insufficient justification had been provided for four specific issues. These issues are

- 1) The City's acceptance of lower "K" values in relation to the proposed vertical sag on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards.
- 2) The requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provides a removal plan, protection plan, and mitigation program.
- 3) Insufficient explanation of how the adjustment criteria were met which granted adjustments to cul de sac standards (length and number of units), and the provision of curb-tight sidewalks through the stream crossing.
- 4) A demonstration of how the landscape protection criteria are being met, since no tree protection plan was originally submitted.

The applicant submitted additional findings on November 15, 2004 in support of their application with respect to the above items raised by LUBA. A written acknowledgement to commence the 90 day review period was received from the applicant on December 13, 2004, pursuant to ORS 227.181. Staff has reviewed this additional information, prepared additional analysis and findings and ultimately recommended that the Council adopt those findings and uphold the original approval with the imposition of seven additional conditions of approval, as outlined in the attached Staff Report.

The case on remand is strictly limited to the four issues remanded back from LUBA. Staff has not modified nor deleted any previous conditions of approval, and suggests that the findings contained within the staff report supplement the previously adopted findings, to the extent that they do not conflict, on these four specific issues. The Council may accept, modify, or reject the proposed findings and conditions, but should Council find that the criteria have not been and cannot be met, the result would be a denial of the entire subdivision proposal.

OTHER ALTERNATIVES CONSIDERED

- Prepare alternate findings based on the evidence presented.
- Request additional evidence to support alternate findings.
- Prepare findings to deny the request.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management-Goal #1, Accommodate growth while protecting the character and livability of new and established areas.

ATTACHMENT LIST*

Attachment 1 – Staff Report to City Council

Attachment 2 – Applicant's Justification for Items Identified In LUBA Remand, dated November 15, 2004

EXHIBIT A – Tree Plan Narrative – Terragan and Associates, dated November 19, 2004

EXHIBIT B – Revised Tree Preservation Plan – Kurahashi and Associates, dated January 10, 2005

Attachment 3 – Applicant's Statement clarifying the Tree Plan, dated January 19, 2005

Attachment 4 – City Forester's memorandum, dated January 24, 2005

Attachment 5 – City Engineer's memorandum, dated January 25, 2005

* The Record for Ash Creek Estates PD (SUB2003-00010) is incorporated by reference and is available through the City Records, but is not included with this packet due to the volume of material and the redundant nature of including it into the record twice.

FISCAL NOTES

Staff time and report analysis preparation are not reimbursable as part of this LUBA remand process.

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



90 DAY REMAND PERIOD = 3/13/2005

SECTION I. APPLICATION SUMMARY

REMAND of ASH CREEK ESTATES SUBDIVISION

FILE NAME:
LUBA FILE NO: 2003-194
CITY CASE NO'S: Subdivision (SUB) SUB2003-00010
Zone Change (ZON) ZON2003-00003
Planned Development Review (PDR) PDR2003-00004
Sensitive Lands Review (SLR) SLR2003-00005
Adjustment (VAR) VAR2003-00036
Adjustment (VAR) VAR2003-00037

APPLICANT: Dale Richards
Winwood Construction
12655 SW North Dakota Street
Tigard, OR 97223

OWNER: Ernest E. and Elda H. Senn
9750 SW 74th Avenue
Tigard, OR 97223

PROJECT CONTACT: Kurahashi and Associates
Attn: Greg Kurahashi
15580 SW Jay, Suite 200
Beaverton, OR 97006

REQUEST: The State Land Use Board of Appeals (LUBA) has remanded City Council's approval of a 29-lot planned development on 9.3 acres and associated sensitive lands and adjustment reviews for additional findings to support their decision. This hearing is limited to the four specific assignments of error which are generally:

- 1) the City's acceptance of lower "K" values in relation to the proposed vertical sag curve on SW 74th and demonstration that the City Engineer is authorized to approve such deviations to adopted street standards,
- 2) the requirement that the applicant prepare and submit a tree plan that identifies the size, species, and location of trees on the site, provides a removal plan, protection plan, and mitigation program in accordance with TCDC18.790,
- 3) revised findings are required for the proposed curb tight sidewalks on SW 74th to address the relevant criteria of TCDC 18.370.C.11., and
- 4) additional findings related to the landscape protection criteria of TCDC 18.745.030.E.

ZONING DESIGNATION: R-4.5: Low-Density Residential District.

LOCATION: 9750 SW 74th Avenue; WCTM 1S125DC, Tax Lots 300 and 400.

**APPLICABLE
REVIEW
CRITERIA:**

Community Development Code Chapters 18.370, 18.790, and 18.810

SECTION II. STAFF RECOMMENDATION

Staff recommends that the City Council accept and adopt the additional findings presented in the applicant's submittal, as further elaborated on within this report and find that the proposed Planned Development and street adjustments will not adversely affect the health, safety and welfare of the City and meets the Approval Criteria outlined in this report. Therefore, Staff recommends **APPROVAL**, subject to the Conditions of Approval and Findings adopted previously as Resolution 03-61 and further refined, and amended within this report:

CONDITIONS OF APPROVAL

(Note, conditions #1-51 are from the original decision and are included for reference only)

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

Submit to the Planning Department (Morgan Tracy, 639-4171, ext. 2428) for review and approval:

1. Prior to site work, the applicant shall submit an arborist report with tree protection recommendations, and shall provide the City Arborist with a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving.
2. Prior to site work, the applicant shall submit a complete set of construction documents with the tree locations for the City Arborists review. The applicant will not cut any healthy trees within the designated open space tract. Furthermore, the applicant shall not cut any healthy trees in the tree preservation areas of Lots 1-18, which shall be defined as the area at least 15' from the rear of the building footprints. However, if an arborist determines that trees in these areas are dead, diseased, or pose a safety hazard, then the applicant shall remove affected trees from those areas.
3. Prior to site work, the applicant shall notify the City Arborist at least 48 hours prior to commencing construction when the tree protection measures are in place so that he may verify that the measures will function properly.
4. Prior to site work, the applicant shall provide evidence of all necessary approvals for work within the wetlands from US Army Corps of Engineers and the Division of State Lands.
5. Prior to site work, the drainage tract must be clearly identified in the field with permanent (preferably with minimum 4-foot-tall black chainlink) fencing so as to insure no grading or material is placed in this area. Any fencing that is damaged during construction must be replaced prior to final building inspection. If the damage is such that it will no longer effectively identify the tract, it shall be replaced/reinstalled immediately.
6. Prior to site work, a signed approval shall be included with the City's construction drawing packet.

Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:

7. Prior to approval of construction plans, the applicant shall "pothole" the City of Tualatin's main water transmission line to determine the exact location and condition of the pipe. The applicant shall notify the City of Tigard and the City of Tualatin 48 hours prior to the pothole inspections and when any construction activity will impact the pipe (such as placement of fill and excavation in the immediate vicinity) so that a representative from both the Cities of Tualatin and Tigard can be present.
8. Prior to commencing onsite improvements, a Public Facility Improvement (PFI) permit is required for this project to cover all infrastructure and any other work in the public right-of-way. Eight (8) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any other drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.ci.tigard.or.us).
9. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
10. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking shall be provided on-site. No construction vehicles or equipment will be permitted to park on the adjoining residential public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application, and shall include the vehicles of all suppliers and employees associates with the project.
11. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of 74th Avenue. The improvements adjacent to this site shall include:
 - A. City standard pavement section for a neighborhood route, without bike lanes, from curb to centerline equal to 16 feet, with a minimum pavement width of 24 feet;
 - B. Pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
 - C. Concrete curb, or curb and gutter as needed;
 - D. Storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
 - E. 5-foot concrete sidewalk with a planter strip (unless adjusted);
 - F. Street trees in the planter strip spaced per TDC requirements;
 - G. Street striping;

- H. Streetlight layout by applicant's engineer, to be approved by City Engineer;
 - I. Underground utilities;
 - J. Street signs (if applicable);
 - K. Driveway apron (if applicable);
 - L. Adjustments in vertical and /or horizontal alignment to construct SW 74th Avenue in a safe manner, as approved by the Engineering Department, including reductions to the speed limit as necessary; and
 - M. Right-of-way dedication to provide 27 feet from centerline.
12. The applicant's Public Facility Improvement permit construction drawings shall indicate that full width street improvements, including traffic control devices, mailbox clusters, concrete sidewalks, driveway aprons, curbs, asphaltic concrete pavement, sanitary sewers, storm drainage, street trees, streetlights, and underground utilities shall be installed within the interior subdivision streets. Improvements shall be designed and constructed to local street standards.
13. A profile of 74th Avenue shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
14. The applicant's construction drawings shall show that the pavement and rock section for the proposed private street(s) shall meet the City's public street standard for a local residential street.
15. The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility improvement permit.
16. Final design plans and calculations for the proposed public water quality/detention facility shall be submitted to the Engineering Department (Kim McMillan) as a part of the Public Facility Improvement plans. Included with the plans shall be a proposed landscape plan to be approved by the City Engineer. The proposed facility shall be dedicated in a tract to the City of Tigard on the final plat. As a part of the improvement plans submittal, the applicant shall submit an Operations and Maintenance Manual for the proposed facility for approval by the Maintenance Services Director. The facility shall be maintained by the developer for a three-year period from the conditional acceptance of the public improvements. A written evaluation of the operation and maintenance shall be submitted and approved prior to acceptance for maintenance by the City. Once the three-year maintenance period is completed, the City will inspect the facility and make note of any problems that have arisen and require them to be resolved before the City will take over maintenance of the facility. In addition, the City will not take over maintenance of the facility unless 80 percent of the landscaping is established and healthy. If at any time during the maintenance period, the landscaping falls below the 80 percent level, the developer shall immediately reinstall all deficient planting at the next appropriate planting opportunity.
17. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, December 2000 edition."
18. A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to ensure the surface drainage is directed to the street or a public storm drainage system

approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

19. The applicant shall incorporate the recommendations from the submitted geotechnical report by GeoPacific Engineering, Inc., dated May 9, 2003, into the final grading plan. The applicant shall have the geotechnical engineer ensure that all grading, including cuts and fills, are constructed in accordance with the approved plan and Appendix Chapter 33 of the UBC. A final construction supervision report shall be filed with the Engineering Department prior to issuance of building permits.
20. The design engineer shall indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/of permits will be necessary when the lots develop.
21. The final construction plans shall be signed by the geotechnical engineer to ensure that they have reviewed and approved the plans. The geotechnical engineer shall also sign the as-built grading plan at the end of the project.
22. The applicant shall obtain a 1200-C General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO APPROVAL OF THE FINAL PLAT:**

Submit to the Planning Department (Morgan Tracy, 639-4171, ext 2428) for review and approval:

23. Prior to approval of the final plat, the applicant shall revise the plat to accommodate a minimum of 25 feet of frontage for all lots within the development.
24. Submit a revised street tree/landscape plan that shows an alternative tree species used for the public street to vary the streetscape.
25. The applicant shall provide joint access within an easement or tract to Lots 28 and 29 and cause a statement to be placed on the plat limiting additional direct vehicular access to SW 74th Avenue.
26. Provide a plat name reservation approval from Washington County.
27. Prior to final subdivision plat approval, the applicant shall convey title for the proposed open space to a homeowner's association in accordance with the requirements of Section 18.350.110.A.2.b of the Tigard Development Code.

Submit to the Engineering Department (Kim McMillan), 639-4171, ext. 2642) for review and approval:

28. Prior to approval of the final plat the applicant shall obtain a plumbing permit for the construction of the private storm line in the private street.

29. Prior to approval of the final plat, the applicant shall pay an addressing fee in the amount of \$900.00 (Staff Contact: Shirley Treat, Engineering).
30. Prior to approval of the final plat, the applicant shall cause a statement to be placed on the final plat to indicate that the proposed private street(s) will be jointly owned and maintained by the private property owners who abut and take access from it (them).
31. Prior to approval of the final plat, the applicant shall prepare Conditions, Covenants and Restrictions (CC&R's) for this project, to be recorded with the final plat, that clearly lays out a maintenance plan and agreement for the proposed private street(s). The CC&R's shall obligate the private property owners within the subdivision to create a homeowner's association to ensure regulation of maintenance for the street(s). The CC&R's shall additionally establish restrictions regarding the removal of trees greater than 12 inches in diameter from any of the lots or tracts following completion of the subdivision improvements. Trees may only be allowed to be removed subject to a certified arborist's finding that the trees are dead, or in severe decline. The applicant shall submit a copy of the CC&R's to the Engineering Department (Kim McMillan) and the Planning Department (Morgan Tracy) prior to approval of the final plat.
32. Prior to approval of the final plat, the applicant shall demonstrate that they have formed and incorporated a homeowner's association.
33. Prior to approval of the final plat, the applicant shall either place the existing overhead utility lines along SW 74th Avenue underground as a part of this project, or they shall pay the fee in-lieu of under grounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$27.50 per lineal foot. If the fee option is chosen, the amount will be \$11,578.00 and it shall be paid prior to final plat approval.
34. Prior to approval of the final plat, the applicant shall provide a maintenance access road to the facility and any drainage structures within the facility to accommodate City maintenance vehicles. The access road shall be paved and have a structural section capable of accommodating a 50,000-pound vehicle. The paved width shall be a minimum of 10 feet wide, and there shall be two-foot rock shoulders provided on each side. If the maintenance roadway is over 150 feet in length, a turnaround shall be provided.
35. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:
- GPS tie networked to the City's GPS survey.
 - By random traverse using conventional surveying methods.
36. Final Plat Application Submission Requirements:
- A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.

- B. Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 426).
- C. The final plat and date or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
- D. The right-of-way dedication for 74th Avenue shall be made on the final plat.
- E. Note: Washington County will not begin their review of the final plat until they receive notice from the Engineering Department indicating that the City has reviewed the final plat and submitted comments to the applicant's surveyor.
- F. After the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF BUILDING PERMITS:**

Submit to the Planning Department (Morgan Tracy, 639-4171, ext. 2428) for review and approval:

- 37. Prior to issuance of any building permits, re-plant any area where vegetation has been removed as a result of grading in conformance with the Clean Water Services Standards as set forth in the site assessment file #2819, prior to obtaining building permits.
- 38. Prior to issuance of any building permits, the applicant shall submit plans that show one (1) off-street parking space, which meets minimum dimensional requirements and setback requirements as specified in Title 18, provided on-site for each new home.
- 39. At the time of application for building permits for individual homes, the applicant shall demonstrate that each site will be accessed by a minimum 10-foot-wide paved access.
- 40. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.
- 41. Prior to the issuance of building permits the applicant shall submit a revised plan that indicates the modified setbacks as set forth in this decision and record a copy of the approved setback plan with the deeds for each lot.
- 42. Prior to issuance of building permits for structures on the individual lots within this development, the applicant shall demonstrate compliance with the height requirement of the underlying zone. The requirement calls for 30-foot maximum height for primary units and 15 feet maximum for all accessory structures.
- 43. Prior to the issuance of building permits on any lot, the applicant must provide city staff with a letter from Clean Water Services that indicates compliance with the approved service provider letter (#2819).

Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:

44. Prior to issuance of building permits the applicant's engineer shall provide a post-construction sight distance certification for the new intersection at 74th Avenue.
45. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
46. Prior to issuance of building permits, the City Engineer shall deem the public improvements substantially complete. Substantial completion shall be when: 1) all utilities are installed and inspected for compliance, including franchise utilities, 2) all local residential street have at least one lift of asphalt, 3) any off-street and/or utility improvements are substantially completed, and 4) all street lights are installed and ready to be energized. Note: The City apart from this condition, and in accordance with the City's model home policy may issue model home permits).
47. Prior to issuance of building permits, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
48. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a "photo mylar" copy of the recorded final plat.
49. The applicant shall provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF FINAL BUILDING INSPECTION:**

50. The applicant shall install street trees and an evergreen hedge of Leyland Cypress spaced no greater than three feet on center along the northern property line of Lots 1-10 and the eastern property line of Lots 10-12.

**ADDITIONAL CONDITIONS OF APPROVAL
FOR ASH CREEK ESTATES:**

51. The applicant and future owners of lots within the development shall ensure that the requirements of CDC 18.725 (Environmental Performance Standards) are complied with at all times.

ADDITIONAL CONDITIONS IMPOSED THROUGH REMAND FINDINGS AND ANALYSIS

52. Prior to commencing site work, the applicant shall submit construction drawings that show advisory "15 mph" speed limit signs to be placed in advance of the crest and sag curves on SW 74th in accordance with the City Engineer's Memorandum of January 25, 2005, which requires that the sag be monitored after construction to determine if any other measures need to be taken. The applicant shall be responsible for installation of additional measures within a year after construction of the street is accepted by the City if monitoring indicates that additional traffic control measures are needed.
53. Prior to commencing site work, the applicant shall submit a bond for the equivalent value of mitigation required (3,446 number of caliper inches times \$125 per caliper inch). If additional trees are preserved through the subdivision improvements and construction of houses, and are properly protected through these stages by the same measures afforded to other protected trees on site, the amount of the bond may be correspondingly reduced. Any trees planted on the site or off site in accordance with 18.790.060 (D) will be credited against the bond, for two years following final plat approval. After such time, the applicant shall pay the remaining value of the bond as a fee in lieu of planting.
54. Prior to issuance of building permits, the applicant/owner shall record a deed restriction for each lot to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
55. Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.
56. Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
57. Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being

followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.

58. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

THIS APPROVAL SHALL BE VALID FOR 18 MONTHS FROM THE EFFECTIVE DATE OF THE CITY COUNCIL'S FINAL DECISION.

SECTION III. BACKGROUND INFORMATION

Application History

The property is currently developed with one single-family residence and a couple of small outbuildings. On July 7th, 2003, the Tigard Planning Commission held a public hearing to consider an application for a 29 lot subdivision and planned development on 9.36 acres. The property is located at 9750 SW 74th Avenue. The proposal is to provide single-family detached housing on lots ranging between 4,702 and 11,616 square feet.

The Planning Commission moved to deny the application, which failed in a 4-4 tie vote. The Commission then moved to approve the application, which also failed in a 4-4 tie vote. Based on the Commission's by-laws and Robert's Rules of Order, without a majority affirmative vote, the application is denied. Since no motion was approved, no findings in support or against the application were adopted.

The applicant, Dale Richards of Windwood Homes, filed an appeal of the application denial on July 15, 2003. His stated grounds for the appeal are "That applicant contends that the Planning Commission should have adopted specific grounds for denial. The denial should have been based on the proposed plan not meeting the Development Code. All specific requirements of the code were met. The applicant, therefore, proposes that the project should be approved through the appeal process."

On August 12, 2003, the City Council held a public hearing on the appeal to reconsider the application, de novo. Based on the large numbers of those in attendance wishing to testify, there was insufficient time to receive testimony from all interested parties. Therefore Council continued the public hearing to the September 9th Council meeting to complete the public testimony.

At the September 9, 2003 hearing, the applicant offered rebuttal to the points raised by the opponents. After the hearing closed, Council members indicated that they were persuaded the requirements of the Development Code had been met and approved a motion for tentative decision for approval of the application. Council directed the applicant to provide the written findings for this decision for final Council consideration at its October 28, 2003 meeting. The applicant submitted

findings along with modified conditions of approval to support the decision. At the October meeting, Council adopted resolution 03-58 approving the Ash Creek Estates Subdivision.

In that resolution, a reference was made to a letter dated September 26, 2003 from the applicant. That date was erroneous. The letter which established the Conditions of Approval for the project is dated October 10, 2003. The correct letter, and consequently the correct findings and conditions of approval were incorporated in the adopted resolution. Only the reference to the date of the letter in the resolution was in error. As a result, on November 4, 2003, the City Council adopted a resolution (Resolution No. 03-61) correcting the reference.

Within the 21-day appeal period established for appeals to the State Land Use Board of Appeals, John Frewing filed an appeal with LUBA. On August 20, 2004, the Land Use Board of Appeals ("LUBA"), issued a decision to remand the City's decision approving the application. LUBA's decision specified four instances where it found the City's findings insufficient.

Vicinity Information:

The site is located in the northwest corner of the City limits, south of SW Taylor's Ferry Road, on the east side of SW 74th Avenue. The property is surrounded on all sides by single-family residences on lots that vary in size. There is a stream (Ash Creek) on the property that runs in an east west direction along the southern property boundary. This drainageway contains wetlands and areas of steep slopes.

Proposal Information:

The applicant is proposing to subdivide the parcel into 29 lots for single-family residences. Because of the trees, wetlands, and slopes on the site, the applicant has requested a planned development to allow them to vary the underlying zoning standards to develop around these features. The applicant is also requesting an adjustment to allow a curb tight sidewalk as opposed to a sidewalk separated from the travel surface by a planter strip, and an adjustment to the cul-de-sac standards limiting the number of units on a cul-de-sac and the 200-foot maximum length permitted for a cul-de-sac.

SECTION IV. DECISION MAKING PROCEDURES, PERMITS AND USE

USE CLASSIFICATION: SECTION 18.130.020

Lists the Use Categories.

The applicant is seeking approval of a 29-lot subdivision on 9.3 acres. The lots are to be developed with detached single-family homes. Single family residential development is outright permitted in the R-4.5 zone. The existing single-family home is to be demolished. Lot sizes within the proposed development are between 4,702 and 11,616 square feet and average 6,424 square feet. The applicant is also proposing to set aside approximately 4.15 acres in an open space tract for the drainageway and wetland area. A private street cul-de-sac is also proposed to extend from the public street stub into the property. The site is located within the R-4.5, Low Density Residential District. Planned Developments are permitted in all zoning districts. The applicant has applied for conceptual and detailed planned development approval in conjunction with the subdivision.

SUMMARY OF LAND USE PERMITS: CHAPTER 18.310

Defines the decision-making type to which the land-use application is assigned.

This is a Planned Development/Subdivision, which is defined as a Type III-PC Application. The Planning Commission decision is appealable to the City Council. The City Council decision is the final

decision at the local level. Appeals of City Council decisions are heard at the State level by the Land Use Board of Appeals (LUBA). LUBA may either affirm, reject, modify, or remand the decision back to the local decision making authority. In this case, LUBA remanded the decision for further consideration.

DECISION MAKING PROCEDURES: CHAPTER 18.390

Describes the decision-making procedures.

Type III procedures apply to quasi-judicial permits and actions that contain predominantly discretionary approval criteria. Type III-PC actions are decided by the Planning Commission with appeals to the City Council. Type III-HO actions are decided by the Hearings Officer with appeals to City Council. In cases where both the Hearings Officer and Planning Commission are involved, the Planning Commission has preferential jurisdiction, per Tigard Development Code (TDC) Section 18.390.080(D)(2)(a).

SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS

As this case has been remanded from LUBA¹ based on four assignments of error related to insufficient evidence to support the City's conclusions, the applicable review criteria are those related to the specific assignments of error. City Council has previously reviewed this proposed development, and provided findings related to the other relevant portions of the review criteria. Those findings are memorialized by Resolutions 03-58 and 03-61. This review is limited to the criteria and issues that were raised by LUBA. The applicant provided a narrative and additional evidence to respond to the issues outlined in LUBA's remand. The findings contained herein are intended to supplement the City's existing adopted findings where consistent. In the case that the following findings conflict with the original findings, these findings shall govern.

LUBA's opinion on the four assignments of error on which it remanded are reproduced in their entirety in the following sections (distinguished by a different typeface), followed by the applicant's additional findings and Staff's analysis, as applicable.

1. ASSIGNMENT OF ERROR 5(B)

LUBA found that there was inadequate evidence to support the City's position that it has the authority to approve a street design that does not meet the standard design specifications, especially as it relates to the vertical sag curve on SW 74th Avenue. The text of their discussion follows:

B. Vertical Sag Curve

SW 74th Avenue along the western border of the property is currently unimproved. To improve SW 74th Avenue along the western border of the property a creek and wetlands near the southwestern corner of the property must be crossed, which will create a vertical sag curve.² With increased speed, the vertical sag curve needs to be more level or gentle to allow traffic traveling at the road's design speed to travel across the vertical sag curve safely. With decreased speed, the vertical sag curve can be steeper, or more severe, and still be safely

¹ ORS 197.835(9) states "In addition to the review under subsections (1) to (8) of this section, the board shall reverse or remand the land use decision under review if the board finds [that] the local government or special district made a decision not supported by substantial evidence in the whole record."

² According to respondent, a vertical sag curve is the opposite of the type of curve that must be negotiated to climb and crest a hill and descend the other side of the hillcrest. In traversing a vertical sag curve, one descends to the bottom of the curve and then climbs up the other side of the curve.

traveled. **The issue presented in this subassignment of error is whether the city approved construction of SW 74th with a vertical sag curve that is too steep.** (emphasis added)

TCDC 18.810.020(B) provides that the City Engineer is to establish street construction standards.³ The parties apparently agree that the City Engineer has done so. Attached to the petition for review, as Appendix B, are two figures that petitioner and the city apparently agree are street construction standards that have been adopted by the City Engineer. The first figure shows a typical road pavement section, which indicates that the design speed for local roads is 25 miles per hour. The second figure shows vertical sag curve "K" values for roads with different design speeds. We do not fully understand that table, but the vertical sag curve "K" values clearly increase with design speed. For example a road with a design speed of 25 miles per hour must have a K value of at least 13.4. For a road with a design speed of 55 miles per hour, a K value of at least 65.1 is required. It appears that the smaller the "K" value the steeper the vertical sag curve. Conversely, the larger the "K" value the more gentle the curve.

Rather than place fill in the area of the creek to decrease the severity of the vertical sag curve to a "K" value of at least 13.4, the county [sic] approved a steeper vertical sag curve with a "K" value of 5.4.⁴ To allow the steeper vertical sag curve and maintain safety, the county [sic] reduced the speed limit that would otherwise apply to this part of SW 74th Avenue to 15 miles per hour. The county [sic] explained its decision as follows:

"The applicant also requested that the speed limit be reduced to 15 miles per hour in the section where the 74th Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The city of Tigard standards are met by a 15 mile per hour vertical curve design, to a 'K value' of greater than 5 (AASHTO)." Record 43.

It may well be that a road with speed limited to 15 miles per hour with a vertical sag curve with a "K" value of greater than 5 is just as safe as roads with the design speeds shown on the table with vertical sag curves with the "K" value that corresponds to the different design speeds. However, the city's street standards seem to call for roads with a design speed of at least 25 miles per hour. Roads with a design speed of 25 miles per hour may have vertical sag curves with a "K" value of no less than 13.4. While avoiding the fill that will be necessary to achieve a vertical sag curve in this section of SW 74th Avenue might make sense from both environmental impact and traffic engineering perspectives, and might result in no compromise in safety if the posted speed limit is reduced to 15 miles per hour, **the city's findings identify no authority for simply deviating from the lowest "K" value that is specified in the city's standards, and reducing the speed on the street to maintain safety.**⁵ (Emphasis added). If the City Engineer has retained discretion under the TCDC and any other related city regulations to simply deviate from the table and allow construction of a road with a lower "K" value and impose a speed limit to preserve safety, no party identifies such authority.

The findings simply say the City Engineer has accepted the proposal. Neither the city's findings nor the response brief identify any place in the record that explains the City Engineer's reasoning in support of the lower "K" value or the city's engineer's authority to approve deviations from the adopted "K" values. Without that explanation, we must sustain this subassignment of error.

ADDITIONAL FINDINGS AND ANALYSIS

SW 74th Avenue along the western border of the property is currently unimproved. The City required the applicant to make improvements to S.W. 74 as part of its approval (Conditions 10, 11, 13, 33, 45).

³TCDC 18.810.020(B) provides:

"Standard specifications. The City Engineer shall establish [street and utility] standard specifications consistent with the application of engineering principles."

⁴The findings explain that to achieve a "K" value of 13.4 a great deal of fill would be required in the wetland and that fill would have to be placed on top of an existing water line. The city wished to avoid placing this amount of fill on the water line. Record 84.

⁵Taken to an extreme, if the speed limit were reduced to a crawl, we assume almost any "K" value could be accommodated.

The applicant has accepted these conditions. The applicant notes that due to the topography and the existence of a stream, the improvements to S.W. 74 will result in a fairly steep sag curve and a corresponding crest curve. There are standards that define how steep sag and crest curves can be at various speeds. The steepness of the curves is expressed as a "K" value. For example, at a speed of 25 miles per hour (mph), the typical standards require a vertical sag "K" value of no less than 13.4. In this case, the speed limit on S.W. 74th is 25 mph. To achieve a "K" value of 13.4, the applicant would have to place a significant amount of fill in S.W. 74 to make the sag curve shallower and the crest curve lower.

During the hearing process, the applicant provided evidence that significant fill would cause negative impacts to the resources adjacent to S.W. 74th and might possibly damage an existing 36-inch diameter water main serving the City of Tualatin that is in the street right of way. Also, in order to be able to maintain this line, the amount of earth over the line must be minimized. By designing the curves to meet the "K" values required for a 25 mile per hour design speed would result in fills greater than 35 feet deep. This would impede normal and emergency maintenance and repairs as well as make a large failure have catastrophic results (i.e. loss of the road and loss of water service to the City of Tualatin).

Also the fills would result in greater impacts to the creek with either larger footings for retaining walls or wider fill slope areas, which would remove a meander in the creek, more wetland area, and additional large trees from the sensitive area.

The applicant's engineer considered using a bridge as opposed to fill. The applicant's engineer concluded that a bridge would result in an unmaintainable water line that could not be repaired or maintained under the bridge deck and the line would be much too expensive to construct and maintain.

Relocating the waterline is not a viable option either since it would interrupt water service to the City of Tualatin. This would also increase the difficulty of maintaining the line as it would be in the waterway as well as have increased impacts to the sensitive resources.

As the applicant had previously presented, allowing for a lower speed limit is the only reasonable solution to the waterline construction and maintenance issue. At 15 mph, Windwood could make the required improvements using only 21.63 ft. of fill. While that means that any repair will still require some excavation, it is 13.27 feet less than what is required if the sag curve is designed at 25 mph, and as a result, much more viable to maintain.

Accordingly, the applicant proposed to lower the speed limit in the area of the sag curve to 15 mph. At that speed the sag curve "K" factor is no less than 5. The applicant could improve S.W. 74th to meet that standard without significant fill. The City agreed with the applicant's proposal and, in the final findings, stated as follows:

"The applicant also requested that the speed limit be reduced to 15 mph in the section where the S.W. 74 Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The City of Tigard standards are met by a 15 mph vertical curve design to a "K" value of greater than 5 (AASHTO)."

The City Engineer has provided a memorandum expressly approving the modified design by granting an exception to the standard. This exception is mitigated by the requirement for additional advisory signage and street lighting, as further described in the memo.

Section B (City of Tigard Standard Specifications) reads "The City Engineer shall establish standard specifications consistent with the application of engineering principles" The City's Public Improvement standards are based on AASHTO standards and the standards of Washington County. The preface to the City's design standards states: "The form has been kept brief and no attempt has been made to

cover all possible situations or to provide detailed explanations.” In relation to sag curves and crest curves, the Washington County standards, as set forth in tables, include speeds of less than 25 mph and speeds as low as 15 mph. Because the City’s published tables are not intended to be comprehensive and because they are based on Washington County standards, the applicant asserts, and the City agrees that the City Engineer has the authority to approve a design based on a 15 mph speed consistent with Washington County standards. The Washington County table confirms that the applicant’s proposed design meets AASHTO standards since Washington County designs conform to AASHTO.

In fact, the applicant’s proposed design exceeds Washington County’s standards. Washington County’s standard for both sag and crest curves require a “K” value of at least 5.0 at 15 mph. The applicant’s proposed design will result in a “K” value of 5.3.

In order to clarify the authority to “set” speed limits, the applicant’s engineer contacted the State of Oregon. The speed limit is set by the State as 25 miles per hour as the normal speed limit on all residential streets. Where specific sections of streets cannot meet this standard, cities have authorization to provide design exceptions that allow for sections of streets that they are in ownership of to be constructed, reconstructed, or repaired that don’t meet the speed limit standards. The State administers design exceptions on its own highways as well. According to the State, design exceptions at the state level are mitigated by using advisory signs as well as other safety measures. Jurisdictions are, therefore, allowed to post special signs and take other measures to safely control traffic.

The applicant proposes two options:

Option 1: Advisory Signage

- A. Install “Bump” sign with 15 mph advisory sign below it.
- B. Install “DIP” sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Option 2: Three Way Stop Intersection

- A. Install a “3 -Way Stop” at the intersection of the new public road access to S.W. 74 Avenue.
- B. Install “DIP” sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Although Option 2 would result in a stop sign on S.W. 74 which is a through street, this would remove the need to sign the street for 15 miles per hour at the crest since the stop sign will slow traffic to an approach speed of 15 mph at the critical location. Although this would not meet warrants for a “need” by ASSHTO standards, this would be a very effective “legal” mitigation for the crest not meeting speed design standards. These measures would qualify as a mitigation for the sag and crest.

The City Engineer has determined that neither option presented is desirable. Option 1 seemingly calls for the installation of a speed bump, which could exacerbate the present deficient “K” value, and there is insufficient documentation in the record to indicate the effects of such a proposal. Option 2 proposes to install stop signs on a designated through route (SW 74th Avenue), without sufficient warrants to require the stop signs. The City Engineer has determined that placement of “15 mph” advisory signage in advance of the crest and sag in each direction are appropriate mitigation

measures and are sufficient to address the deficient "K" value. The City Engineer has determined that the sag should be monitored to verify whether the signage is sufficient to slow traffic. If not effective, the applicant will be required to install additional traffic control measures at the direction of the City Engineer within a year following completion of the street construction. A condition to this effect will be imposed:

Recommended Condition of Approval (#52):

Prior to commencing site work, the applicant shall submit construction drawings that show advisory "15 mph" speed limit signs to be placed in advance of the crest and sag curves on SW 74th in accordance with the City Engineer's Memorandum of January 25, 2005, which requires that the sag be monitored after construction to determine if any other measures need to be taken. The applicant shall be responsible for installation of additional measures within a year after construction of the street is accepted by the City if monitoring indicates that additional traffic control measures are needed.

2. ASSIGNMENT OF ERROR 5(I)

LUBA disagreed with the City's interpretation of the Development Code that would exempt properties with timber deferral status from filing a tree plan consisting of an inventory, removal plan, protection plan, and mitigation program. The text of their discussion follows:

I. Completeness and Adequacy of the Applicant's Tree Plan

One section of the TCDC is entitled "Tree Removal." TCDC 18.790. We recently discussed this section of the TCDC at some length in *Miller v. City of Tigard*, 46 Or LUBA 536, 539-43 (2004). There are several sections of TCDC 18.790 that are relevant under this assignment of error.

1. Tree Removal Permits

TCDC.790.050 identifies circumstances where a permit is required from the city to remove a tree and identifies circumstances where a permit is not required to remove a tree.⁶ Under TCDC 18.790.050(A), a city permit is required to remove any trees growing on sensitive lands. But under TCDC 18.790.050(A), no permit would be required from the city to remove the trees from the part of the subject property that falls outside the sensitive land area along the southern part of the property. TCDC 18.790.050(D)(4) appears to have been intended as a further qualification of the TCDC 18.790.050(A) requirement for a permit to remove trees on sensitive lands. But if TCDC 18.790.050(D) was intended to qualify TCDC 18.790.050(A), the final clause of TCDC 18.790.050(D)(4) renders the exemption inapplicable in the only circumstance it could apply, *i.e.*, where land in Christmas tree or forest tax deferral is on sensitive lands. The TCDC 18.790.050(D)(4) exemption is unnecessary for trees that are not located on sensitive lands, because TCDC 18.790.050(A) does not require a permit to remove such trees in the first place.

In summary, as far as we can tell, the applicant could remove all of the trees from the portion of the property that the applicant proposes to develop, without violating TCDC 18.790.050(A). That is because those

⁶As relevant, TCDC 790.050 provides:

"A. Removal permit required. Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 18.775.

"* * * * *

"D. Removal permit not required. A tree removal permit shall not be required for the removal of a tree which:

"* * * * *

"4. Is used for Christmas tree production, or [stands on] land registered with the Washington County Assessor's office as tax-deferred tree farm or small woodlands, but does not stand on sensitive lands."

trees are not located on sensitive lands, and TCDC 18.790.050(A) does not require a permit to remove trees unless those trees are located on sensitive lands.

2. The Tree Plan Requirement

TCDC 18.790.030 requires that a tree plan be provided when property is developed.⁷ The precise nature of the obligation to protect trees through a tree plan is somewhat ambiguous. TCDC 18.790.030(A) states "[p]rotection is preferred over removal wherever possible." [See footnote 7]. But TCDC 18.790.010(C) expressly recognizes that trees may need to be removed to develop property,⁸ and TCDC 18.790.030(B)(2) anticipates that more than 75% of the trees on a site may be removed to accommodate development, subject to mitigation requirements. [See footnote 7]. In addition to the somewhat ambiguous preference for preserving trees, the city also relies on a series of incentives for tree preservation, which are set out in TCDC 18.790.040.

3. Petitioner's Arguments

Petitioner challenges the adequacy of the applicant's tree protection plan. The focus of petitioner's challenge is on the part of the subject property that is to be developed, where most of the trees will be removed. It is not clear to what degree petitioner's arguments challenge the adequacy part of the plan that applies to the sensitive lands, where almost all of the trees are to be preserved. But petitioner's argument includes an overriding complaint that the applicant's tree protection plan evolved significantly over the course of the local proceedings and that it is difficult or impossible to determine with any degree of certainty precisely what the tree protection plan is.

The city and intervenor do not really respond to petitioner's arguments that the tree protection plan that the applicant submitted and the city ultimately approved is inadequate to comply with a number of particular requirements of TCDC 18.390.030. (emphasis added) Instead they rely on city council findings that no tree protection plan is required at all for the part of the property that lies outside the sensitive lands part of the property and that the plan to protect nearly all the trees on the sensitive lands is sufficient to comply with TCDC 18.390.030. We turn to those findings.

⁷TCDC 18.790.030 provides:

- "A. Tree plan required. A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.
- "B. Plan requirements. The tree plan shall include the following:
- "1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;
 - "2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:
 - "a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;
 - "b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;
 - "c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;
 - "d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.
 - "3. Identification of all trees which are proposed to be removed;
 - "4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction. * * *.

⁸TCDC 18.790.010(C) provides:

"Recognize need for exceptions. The City recognizes that, * * * at the time of development it may be necessary to remove certain trees in order to accommodate structures, streets utilities, and other needed or required improvements within the development."

4. The City's Findings

Simply stated the city council found that a tree protection plan is not required for the part of the subject property where the applicant proposes to develop houses, notwithstanding the express requirement in TCDC 18.390.030 that a tree plan must be provided "for any lot, parcel or combination of lots or parcels for which a development application for a subdivision * * * [or] planned development * * * is filed." The city council reached this conclusion based in large part on the TCDC 18.390.050(D)(4) exemption for tree removal permits discussed above. The city council recognized that if TCDC 18.390.050 is read by itself, the TCDC 18.390.050(D)(4) exception serves no purpose, for the reasons we have already explained. To give TCDC 18.390.050(D)(4) some effect, the city council concluded it should be read to exempt proposals to develop lands that are not sensitive lands from the TCDC 18.390.030 requirements for a tree plan and for mitigation in certain circumstances. The fatal problem with that interpretation is that TCDC 18.390.050(D)(4) does not say anything about tree plans or mitigation; it is an unnecessary exception to the TCDC 18.390.050(A) requirement for a tree permit. We review a local governing body's interpretation of its land use regulations under the standard set out at ORS 197.829(1) and the Court of Appeals' decision in *Church v. Grant County*.⁹ Even if interpreting TCDC 18.390.050(D)(4) in the way the city did here might have survived the more deferential standard of review that was required before *Church*, it cannot be affirmed under *Church*. Contrary to the city's argument, the city's interpretation does not merely clarify "the scope of the exemption" provided by TCDC 18.390.050(D)(4), it applies it to a tree plan requirement that it clearly does not apply to. The city council's interpretation is inconsistent with the express language of TCDC 18.390.050(D)(4).

The city council's policy reason for the interpretation it applied here presents only a slightly closer question. The city council concluded that no permit is necessary from the city to harvest trees outside sensitive lands. If the city is right about that, the applicant in this case could remove all of the trees in the area proposed for development and then submit the application, thereby avoiding any requirement to produce a tree plan for that area of the property. If that is true, there may be a loophole in the city's tree removal ordinance that in some circumstances may effectively eviscerate the TCDC 18.390.030 requirement for a tree plan and mitigation. Even if the applicant could take advantage of that loophole, as far as we know it has not done so, and the trees remain on the area of the property to be developed.

It is also important to note that the possibility that the applicant in this case could utilize the loophole to remove the trees before submitting an application does not render the requirement for a tree plan nonsensical. If the portions of a proposed development site that are not sensitive lands are not completely logged before development even though they could be logged, as will frequently be the case for a variety of reasons, there is nothing nonsensical about requiring a tree plan to protect those trees on lands to be developed, during and after the construction phase, and requiring mitigation for the trees that will be removed.

It may be that the tree plan that the applicant has proposed comes far closer to a tree plan for the entire property that complies with TCDC 18.390.030 than petitioner argues. However, without some assistance from the city and intervenor, we cannot conclude that the approved tree plan is consistent with TCDC 18.390.030. **We reject the city's attempt to interpret TCDC 18.390.030 with TCDC 18.390.050(D)(4) to conclude that no tree plan is required for the part of the site that does not qualify as sensitive lands. (Emphasis added)**

This subassignment of error is sustained.

ADDITIONAL FINDINGS AND ANALYSIS

⁹ORS 197.829(1) provides:

"[LUBA] shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:

- "(a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
- "(b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
- "(c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
- "(d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements."

In its decision, City Council interpreted its code to require a tree plan only in situations where the applicant was required to obtain a tree cutting permit to remove trees. The City reasoned that because the applicant in this case was not required to obtain a tree cutting permit for the majority of its site as it was in timber deferral, a tree plan for the entire site was not required. A tree plan was submitted for the balance of the site where sensitive lands were present.

LUBA rejected the City's interpretation. Accordingly, the applicant has submitted a tree plan encompassing the entire site and which includes all of the information required in TCDC 18.790.030. The City Forester has reviewed the plan and has agreed that it is acceptable, as noted in his Memorandum of January 24, 2005. The proposed attached tree plan and arborist's report establishes the trees to be saved and those to be cut. As reflected in that plan, there are 893 total trees on site that are larger than 12" diameter. Of those, 115 are deemed hazardous and are not subject to the mitigation requirement. From the remaining 778 net viable trees, 321 are proposed for removal. This constitutes a 59% retention. Since the total number of trees that will be retained is greater than 50%; one-half of the caliper inches being removed is required to be mitigated. A total of 6892 caliper inches are to be removed, so 3,446 caliper inches will be required to be replanted. This may be accomplished by either planting trees on-site, off-site or payment of a fee in lieu. To assure that mitigation is accomplished and that subsequent tree removals are undertaken in accordance with the requirements of this chapter, staff recommends that the following conditions be imposed:

Recommended Conditions of Approval (#53 and #54):

Prior to commencing site work, the applicant shall submit a bond for the equivalent value of mitigation required (3,446 number of caliper inches times \$125 per caliper inch). If additional trees are preserved through the subdivision improvements and construction of houses, and are properly protected through these stages by the same measures afforded to other protected trees on site, the amount of the bond may be correspondingly reduced. Any trees planted on the site or off site in accordance with 18.790.060 (D) will be credited against the bond, for two years following final plat approval. After such time, the applicant shall pay the remaining value of the bond as a fee in lieu of planting.

Prior to issuance of building permits, the applicant/owner shall record a deed restriction to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

3. ASSIGNMENT OF ERROR 5(J)

LUBA found that the City erred in its decision to grant adjustments to the street improvement standards (number of units on a cul de sac, length of a cul de sac, and curb tight sidewalks on SW 74th) by not providing sufficient findings to respond to the adjustment criteria. The text of their discussion follows:

J. Special Adjustments

The challenged decision grants an adjustment to street improvement sidewalk construction standards to allow a curb-tight sidewalk where SW 74th Avenue crosses the drainageway. The challenged decision also grants two adjustments to allow construction of the proposed cul-de-sac. Those adjustments allow the cul-de-sac to exceed 200 feet in length and to serve 23 houses.¹⁰

¹⁰Under the TCDC, cul-de-sac streets may provide access to no more than 20 houses. The adjustment allows the cul-de-sac to serve 23 houses. Apparently the first 200 feet of the cul-de-sac will provide access to lots 1 and 2 and lots 20-23. The adjustment to the

The city council's decision does not apply the special adjustment criteria set out at TCDC 18.370.020(C)(11), even though the adjustments all appear to be directed at street improvement requirements.¹¹ Instead, the city council applied the special adjustment criteria at TCDC 18.370.020(C)(1).¹² No party questions that choice by the city, and we therefore do not question it either. The city's findings addressing the TCDC 18.370.020(C)(1)(a) requirement that there be special circumstances are set out below:

"* * * The applicant is requesting an adjustment to the 5-foot planter strip along 74th Avenue to reduce 1,100 additional square feet of impact to the drainageway and wetland area. The applicant proposes this curb tight sidewalk for the special circumstance where the development is required to cross the stream. Outside the resource area, the sidewalk will meet the required public street standards.

"Due to the presence of the sensitive lands, the development width of the property makes a looped street unfeasible. Also, because of existing development patterns adjacent to the site, the cul-de-sac could not be extended to the site's east property line. The applicant was able to extend a new public street to the north property line for future connectivity. The length of the cul-de-sac is the primary reason to exceed the 20 home maximum standard on this private street. Because of the special circumstances affecting this property, this criterion has been satisfied." Record 30a.

The city council's findings explaining why the adjustments are necessary for proper design and functioning of the subdivision under TCDC 18.370.020(C)(1)(b) are as follows:

200-foot length limitation is necessary to provide access to lots 3 through 19. Otherwise a loop road would be required and it would appear that such a loop road would almost certainly have to encroach on the wetland and drainage area that is protected under the proposed plan.

¹¹TCDC 18.370.020(C)(11) provides:

"Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards."

¹²TCDC 18.370.020(C)(1) provides:

"Adjustments to development standards within subdivisions (Chapter 18.430). The Director shall consider the application for adjustment at the same time he/she considers the preliminary plat. An adjustment may be approved, approved with conditions, or denied provided the Director finds:

- "a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated;
- "b. The adjustment is necessary for the proper design or function of the subdivision;
- "c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and
- "d. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title."

The adjustment criteria at TCDC 18.370.020(C)(1) in some respects resemble traditional variance criteria, which are exceedingly difficult to satisfy. *Lovell v. Independence Planning Comm.*, 37 Or App 3, 586 P2d 99 (1978); *Wentland v. City of Portland*, 22 Or LUBA 15, 24-26 (1991); *Patzkowski v. Klamath County*, 8 Or LUBA 64, 70 (1983). However as the Court of Appeals made clear in *deBardelaben v. Tillamook County*, 142 Or App 319, 325-26, 922 P2d 683 (1996), LUBA is to extend appropriate deference to the city's interpretations of its own adjustment criteria. Under *Church v. Grant County*, the city is not entitled to the highly deferential standard of review that was required at the time *deBardelaben* was decided, but it still is entitled to appropriate deference under ORS 197.829(1) and *Church*.

"The adjustment request for the curb tight sidewalk is necessary to reduce impacts to the drainageway and wetlands. The adjustment for the cul-de-sac length is necessary to provide access to Lots 3-19 and to allow a turn around for emergency equipment and garbage trucks. The adjustment to allow more than 20 units to access the cul-de-sac is a result of both the length of the resulting cul-de-sac, and the desire to eliminate the need for a second redundant access serving three lots. Providing this second access would have reduced the amount of area available for buildings, with the result of eliminating the lots being served by it. Therefore, this criterion is satisfied." Record 30a-31.

The city council's finding regarding the TCDC 18.370.020(C)(1)(c) public health safety and welfare criterion is as follows:

"The Fire District has reviewed the proposed street design and has provided no objections to these adjustments. There is no evidence that these adjustments will be detrimental to the health safety or welfare to other property owners surrounding the site." Record 31.

Finally, the city council's finding regarding the TCDC 18.370.020(C)(1)(d) extraordinary hardship standard is as follows:

"Due to existing development patterns, the natural resources, and the shape of the site, the adjustment is necessary for the applicant to make use of substantial property rights. The applicant is proposing to build within the density prescribed for this site. The criteria for granting these adjustments to the street design, cul-de-sac length, and sidewalk standards have been satisfied." *Id.*

Petitioner assigns error to the city's findings concerning the TCDC 18.370.020(C)(1)(c) public health safety and welfare criterion and the TCDC 18.370.020(C)(1)(d) extraordinary hardship standard. We have set out the other city findings, on the first two criteria, because they have some bearing on the last two criteria.

Petitioner first contends that, contrary to the city's finding that there is no evidence that these adjustments will be "detrimental to the health safety or welfare to other property owners surrounding the site," there is a great deal of evidence to that effect. The city appears to be correct that some of the evidence cited by petitioner relates more to the development itself rather than the three adjustments that are at issue under this subassignment of error. **However, some of the evidence cited by petitioner clearly does address this criterion, and the city's finding that there is no such evidence is in error.** (Emphasis added) This part of subassignment of error 5(J) is sustained.

Petitioner also argues the city's finding that the adjustments are needed to preserve a substantial property right due to extraordinary hardship that would result from strict compliance with the adjusted standards are inadequate and are not supported by the evidentiary record.

Reading the city's findings concerning TCDC 18.370.020(C)(1)(a) and (d) together, we reject petitioners challenge to the findings regarding the cul-de-sac adjustments under TCDC 18.370.020(C)(1)(d). It is reasonably clear from those findings that if the applicant were forced to provide access to the proposed lots without the adjustments, much more of the property would have to be developed with roads, at a significant additional expense and with the potential loss of lots that would otherwise be approvable. It is reasonably clear that the city considers those impacts to constitute a hardship. We cannot say the city misinterpreted TCDC 18.370.020(C)(1)(d) or that its findings are inadequate to demonstrate that the cul-de-sac adjustments comply with that criterion.

The city's findings concerning TCDC 18.370.020(C)(1)(d) and the curb tight sidewalk are a different story. Although it appears that granting the adjustment would serve the desirable purpose of minimizing fill in

the wetland and drainage area, the city does not explain why it would be a hardship on the applicant to construct a conforming sidewalk.¹³

To summarize, the city's findings concerning TCDC 18.370.020(C)(1)(c) are inadequate for all three adjustments. The city's findings concerning TCDC 18.370.020(C)(1)(a) and (d) are sufficient to demonstrate that the cul-de-sac adjustments comply with TCDC 18.370.020(C)(1)(d). The city's findings concerning TCDC 18.370.020(C)(1)(d) are inadequate to demonstrate that the curb tight sidewalk adjustment satisfied that criterion.

ADDITIONAL FINDINGS AND ANALYSIS

The City Council addressed the applicant's requested adjustment request under TCDC 18.370.020(C)(1), which is a general adjustment standard and not under TCDC 18.370.020(C)(11), which is specific to street improvements. The applicant has acknowledged that in its application material it too addressed the requested adjustments under the general standard as opposed to the specific standard. In its decision, LUBA concluded that the City's findings related to the health safety and welfare impacts of the three adjustments were insufficient. LUBA also concluded that the extraordinary hardship criterion to allow the curb tight sidewalk had not been sufficiently addressed. Staff asserts that the adjustment for the curb tight sidewalk was not necessary based on the strict criteria in Chapter 18.810, and provides findings for such a conclusion below. Nevertheless, the applicant has provided additional findings related to both the general adjustment standard as well as the specific street adjustment criteria. Staff agrees that the specific criteria related to street improvements are more appropriate to this decision than the more general criteria. Staff therefore believes that the specific criteria of TCDC 18.810.070(C), and 18.370.020(C)(11) apply rather than the general criteria of TCDC 18.370.020(C)(1). In the event that the Council or a reviewing entity take the position that the general criteria apply, findings relating to those criteria are also provided.

Planter Strip Requirement 18.810.070 (C)

A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less) Additional consideration for exempting the planter strip requirement may be given on a case by case basis if a property abuts more than one street frontage.

There is adequate right of way to accommodate the required planter strip, and sidewalks do not yet exist on predominant portions of the street. There are some potential conflicts with utilities, but not on the side where the planter strip is required. There are also no existing structures that would be in such close proximity to the new sidewalk. However, additional large trees and water features would be destroyed if the sidewalk were required to be moved five feet further east into the sensitive lands resource. Staff interprets the term "destroyed" to mean that additional trees would be removed, and additional area within the sensitive resource area would be disturbed by grading activity, vegetation removal and possible stream bank rechanneling. Although it is acknowledged that in some instances, these areas can be restored by the planting of new trees, or through revegetation and redirection of

¹³We note that there is no extraordinary hardship criterion like TCDC 18.370.020(C)(1)(d) in the special adjustment criteria for street improvement standards at TCDC 18.370.020(C)(11). See n 48. However, as previously noted, the city applied the special adjustment criteria at TCDC 18.370.020(C)(1) rather than the TCDC 18.370.020(C)(11) criteria.

the stream channel, it is the general preference and the expressed intent of this exemption to avoid the impact in the first place.

Specific Adjustment Criteria 18.370.020(C)(11)

"Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards."

Findings for Length of Cul de Sac (TCDC 18.810.030(L))

Strict application of the 200 foot limitation on cul de sac length would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. Preexisting development surrounds a majority of the site to the north and east. Ash Creek cuts across the property from the southeast to the northwest. The only undeveloped area borders the 968 foot deep site for the first 490 feet. The last 478 feet could either be served by a long cul de sac, or a loop street. A loop street could not return to SW 74th without a high degree of encroachment into the stream and wetland resource. This near doubling of pavement would serve no additional units, and would likely result in the loss of the two lots on the south side of the stream. The other possible option would be to propose a street that would extend through the developed properties and ultimately connect with an adjacent public street. This would have adverse impacts upon existing development however. As described previously, there are no impacts to the public health safety or welfare from granting such an adjustment, so it follows that the impacts raised here exceed any benefit to the public from a strict adherence to this standard.

Findings for Number of Units served By a Cul de Sac

Strict application of the 20 unit maximum limitation on a cul de sac would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. Similar to the findings for the length of the cul de sac, it follows that with a cul de sac of this length, the number of units served by it will exceed the maximum allowed. In this case, there are three additional units on the private cul de sac. By strictly complying with this standard, the applicant would either have to lose three lots, an adverse impact on the proposed development, or reconfigure the through public street to accommodate the three additional units. Staff examined the future streets plan to assess what impact would result if the public street in Ash Creek Estates were extended to encompass the three additional lots presently on the cul de sac. Staff found that if the street were extended to encompass the three additional units, the extension of the public street north would either not align with SW Shady Place (thus requiring an adjustment to street spacing) or would not meet geometric curve requirements to make the alignment (thus requiring an adjustment to street improvement standards), or would need to terminate in a second cul de sac (thus requiring further adjustments to cul de sac length and number of units served). As noted previously, staff found that safety will not be impacted by the three additional units as the cul de sac street and intersection is in all other manners conforming with design requirements and capable of handling the additional vehicle trips. Also, TVF&R has determined that length does not affect safety with respect to the number of lots to be served by a cul-de-sac. The public welfare is moreover unaffected by the three additional houses on this cul de sac since the standard is intended to limit the use of lengthy culs-de sac and promote connectivity and transportation options. In this case, there are no available points to connect to, apart from what is already proposed by the future street plan. The existing development pattern and presence of resources prevent the development from complying with the block length standards. Accordingly, there are only two options to access the eastern lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill.

With the proposed cul de sac, preservation of the stream bed and stormwater conveyance system will be achieved. This will serve to benefit the general welfare of the public at large. Therefore, staff finds that the potential adverse impacts exceed the public benefits of strict application of the standards.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Strict application of the 5 foot wide planter strip requirement would result in an unacceptable adverse impact on the proposed development and natural features for the following reasons. If a 5-foot planter strip was required, then an approximate 1,100 additional square feet of impact to the drainageway and wetland areas would occur. While this would not have an adverse impact on existing development, it would have some impact to the proposed development in terms of additional landform disturbance and cost. This would also certainly have an additional adverse impact to existing natural features including the stream, wetlands, and likely additional trees. The public benefit of a planter strip is the additional aesthetic amenity of breaking the hardscape mass. The presence of the large open stream channel behind the road and sidewalk will serve a similar purpose. Therefore, staff finds that the potential adverse impacts exceed the public benefits of strict application of the standards.

General Adjustment Criteria 18.370.020(C)(1)

"c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property"

Findings for Length of Cul de Sac (TCDC 18.810.030(L))

Granting the requested adjustment will not be detrimental to the public health, safety and welfare of the public. Nor will it be injurious to the rights of other property owners.

The length of a cul-de-sac is a planning issue related to an attempt to geometrically control block sizes from becoming too long. This standard allows continuity of blocks without having long dead-end streets affecting block sizes. The applicant's engineer has evaluated this issue as part of a team whose responsibility it is to evaluate the methods set by Metro to control block geometry to increase connectivity. By limiting the length of cul de sacs, developers are encouraged to provide more through streets, thereby enhancing connectivity. This enhanced welfare is balanced by increased through traffic which may disturb residents. From a safety standpoint, culs-de-sac are vulnerable from the standpoint of only having one available ingress/egress. In certain situations, this access could become blocked preventing residents access to or from their homes. This is also balanced from a public safety perspective by the fact that culs-de-sac are more defensible spaces from burglary, and are generally less prone to break-ins and vandalism. The length of a cul de sac has no bearing on public health. Additionally, neither the Tigard Police nor TVF&R raised any safety concerns over the length of the proposed cul-de-sac. Extending the length of the cul-de-sac reduces the number of intersections and the safety risks associated with intersections.

Opponents testified generally that the adjustments allowing a longer cul-de-sac that would serve more than 20 residences would increase the amount of traffic and nearby streets and then concluded with no further evidence that an increase in traffic will automatically result in decreased safety. The City finds that the amount of traffic is a function of the number of proposed units, not the arrangement of streets. It may be the case that more traffic will use the single point of access, than if there were two entries into the street, but the net difference from a conforming cul de sac is approximately 30 trips per day (see the following findings related to 3 extra units on the cul de sac). This limited number of additional vehicles that will result from the adjustments as opposed to the development itself will not automatically result in decreased safety as the streets within and adjacent to the proposed subdivision are capable of handling the full amount of traffic from this development.

Moreover, when the property to the north is developed, a new street will connect to the proposed subdivision and serve to offset the traffic impact at SW 74th and the Ash Creek Estates public street intersection.

Findings for Number of Units served By a Cul de Sac

In examining the detrimental impacts to the public health, safety, and welfare, it is important to consider that a conforming cul de sac is limited to 20 units. The subject application represents an increase of 3 units. Many of the findings presented previously with regard to the length of the cul de sac are still relevant to these findings. However this request will result in a net increase of approximately 30 vehicle trips per day moving through the intersection of the public street and private cul de sac. There has been no evidence to suggest that the public health will be impacted by this additional traffic, as the total number of units is still within the permitted range of density on the site. In evaluating injury to the rights of other owners of property, the only adjacent property that may be affected by the proposed addition of 3 lots on the cul de sac is tax lot 200 (immediately north of the subject site). Staff examined the future streets plan to assess what impact would result if the public street in Ash Creek Estates were extended to encompass the three additional lots presently on the cul de sac. Staff found that if the street were extended to encompass the three additional units, the extension of the public street north would either not align with SW Shady Place (thus requiring an adjustment to street spacing) or would not meet geometric curve requirements to make the alignment (thus requiring an adjustment to street improvement standards), or would need to terminate in a second cul de sac (thus requiring adjustments to cul de sac length and number of units served). With the requested adjustment, the property rights of the adjacent owner are preserved. Staff found that safety will not be impacted by the three additional units as the cul de sac street and intersection is in all other manners conforming with design requirements and capable of handling the additional vehicle trips. Also, TVF&R has determined that length does not affect safety with respect to the number of lots to be served by a cul-de-sac. TVF&R makes the determination of whether the number of lots poses a safety concern. According to Eric McMullin, TVF&R requires two (2) accesses for safety when more than 25 residential houses are on a street. Here, that standard is met because only 23 houses will be served. The public welfare is moreover unaffected by the three additional houses on this cul de sac since the standard is intended to limit the use of lengthy culs-de sac and promote connectivity and transportation options. In this case, there are no available points to connect to, apart from what is already proposed by the future street plan. The existing development pattern and presence of resources prevent the development from complying with the block length standards. However, where the block length standards incorporated an exemption for these types of constraints, the cul de sac standards did not. Moreover, due to these prior development patterns, there is no way to connect the private street serving the lots to adjacent streets. Accordingly, there are only two options to access the lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill. With the proposed cul de sac, preservation of the stream bed and stormwater conveyance system will be achieved. This will serve to benefit the general welfare of the public at large. Therefore, staff finds no basis to determine any detriment will occur to the public health, safety, or welfare nor does staff find that there is any injury to neighbors as a result of allowing the three additional units on this cul de sac. No additional conditions are warranted in this case.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Curb tight sidewalks in the area proposed will not be detrimental to the public health, safety and welfare or injurious to the rights of other property owners. (The curb tight sidewalk can be considered safe because the area behind the sidewalk has a flat spot which allows pedestrians to keep to the outside while walking.) Curb tight sidewalks are used often and are an alternate location in many

similar public streets throughout the city. This is not a safety concern. Instead, this detail is used where only a few curb cuts are proposed. Planting strips provide for street furniture and places to put mailboxes, power poles, streetlights, telephone pedestals, and power pedestals. This area does not have many of these features. In addition, as discussed above, the traffic in the area of the proposed adjustment will be traveling relatively slowly due to the topography of the road. With a normal sized sidewalk, there will not be pedestrian/vehicle conflicts. The curb-tight sidewalks result in less impact to the stream, and a healthy environment contributes to public health.

"c. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title.

Findings for Curb Tight Sidewalk TCDC 18 810 030(L)

Without granting the adjustment, the applicant would be required to amend the Division of State Lands and Army Corps joint wetland permit. One aspect these agencies seek in wetland fill/encroachment permits is minimization of disturbance to the resource. It is conjecture to speculate that the applicant would not be able to obtain such an amendment to their permit; however, it is important to consider the possibility. Without the DSL/Army Corps approval, the project would not be allowed to proceed, depriving the applicant of the ability to develop the property at the allowed density. The other hardship that would be encountered is the additional cost associated with either additional fill, or larger retaining walls. Since the value of the exaction for the roadway stream crossing is already disproportionate, additional costs placed on this crossing result in an exceeding hardship on the applicant. The applicant would therefore be denied the rights to develop his property within the normal limits of takings law.

As the findings for granting the adjustments have been met, no additional conditions of approval are warranted.

4. ASSIGNMENT OF ERROR 5(K)

Lastly, LUBA found that since there had been no tree plan filed to establish the methods and extent of tree protection requirements, it was premature to determine whether sufficient protection had been afforded to plant materials. The text of their discussion follows:

K. Landscaping

One of the specific planned development criteria is TCDC 18.350.100(B)(3)(g)(1).¹⁴ Petitioner contends that the city erred in counting the 44 percent of the site that will be included in the open space and drainage tract on the site, which will be left in its current undeveloped state, in applying the TCDC 18.350.100(B)(3)(g)(1) landscaping requirement. Petitioner contends that TCDC 18.350.100(B)(3)(g)(1) requires more proactive landscaping efforts on the part of the applicant.

The city's interpretation of TCDC 18.350.100(B)(3)(g)(1) to allow the open space area that is to be left in its natural state to be counted toward the TCDC 18.350.100(B)(3)(g)(1) 20% landscaping requirement is implicit. Record 29. The city contends that it is a sustainable interpretation under ORS 197.829(1) and *Church*. We agree with the city.

¹⁴TCDC 18.350.100(B)(3)(g)(1) imposes the following requirement:

Residential Development: In addition to the requirements of subparagraphs (4) and (5) of section a of this subsection, a minimum of 20 percent of the site shall be landscaped[.]”

Petitioner also cites TCDC 18.745.030(E) and TCDC 18.350.100(B)(3)(a)(5) and argues that the applicant's landscape plan fails to protect existing vegetation "as much as possible" or replace trees.¹⁵ **The city does not respond to petitioner's contention concerning preservation of vegetation during construction under TCDC 18.745.030(E).** Accordingly, we sustain that part of subassignment of error 5(K). (Emphasis added). Petitioner's contention regarding TCDC 18.350.100(B)(3)(a)(5) is not clear. We have already sustained petitioner's subassignment of error 5(I). Until that deficiency is considered by the city on remand, it is premature to consider whether there is any obligation to replace any trees in the area to be developed, beyond the replacement trees that are already proposed.

This subassignment of error is sustained in part.

ADDITIONAL FINDINGS AND ANALYSIS

LUBA had found that since the applicant had not prepared a tree plan, there was inadequate evidence to evaluate the petitioner's claim that vegetation was not being protected. The applicant has submitted the required tree plan, including a protection program. Apart from the areas that will be disturbed to construct the infrastructure (sewer, water, storm drainage, streets, etc.) and the lots that will be graded for soil stability and proper drainage, the remainder of the site will be required to be protected from disturbance. The applicant will be required to erect protection fencing around each tree or group of trees to be retained. To ensure that the remaining vegetation is protected as much as possible, the following conditions should be required.

Recommended Conditions of Approval (#55, 56, 57, 58):

Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.

Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, at least, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities

¹⁵TCDC 18.745.030(E) provides:

"Protection of existing vegetation. Existing vegetation on a site shall be protected as much as possible.

"1. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and
"2. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around individual trees).

TCDC 18.350.100(B)(3)(a)(5) provides:

"Trees preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal."

and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.

Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

SECTION VII. CONCLUSION

In conclusion, the City asserts that the applicant has adequately responded to the errors identified by LUBA, and has supplemented the record with additional information and evidence with which to evaluate the findings. Staff concurs with the applicant on these findings, and has recommended several additional conditions of approval to ensure that these standards and practices are implemented as part of this final decision. Staff therefore recommends approval of the Ash Creek Estates Subdivision, case file SUB2003-00010/ ZON2003-00003/ PDR2003-00004/ SLR2003-00005/ VAR2003-00036/ VAR2003-00037.



PREPARED BY: Morgan Tracy
Associate Planner

January 25, 2005
DATE

APPROVED BY: Dick Bewersdorff
Planning Manager

January 25, 2005
DATE



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

CHRISTOPHER P. KOBACK
Direct (503) 778-5382
chriskoback@dwt.com

SUITE 2300
1300 SW FIFTH AVENUE
PORTLAND, OR 97201-5682

TEL (503) 241-2300
FAX (503) 778-5299
www.dwt.com

November 15, 2004

Morgan Tracey
City of Tigard
13125 S.W. Hall Blvd.
Tigard, OR 97223

Re: **2129 Ash Creek Estates PUD**
Justification For Items Identified in LUBA Remand

Dear Mr. Tracey:

In a decision dated August 20, 2004, the Land Use Board of Appeals ("LUBA"), remanded the City's decision approving Windwood Construction's application for a planned unit development named Ash Creek Estates. LUBA's decision specified three instances where it found the City's findings insufficient. In this letter, Windwood Construction is providing the City with additional information and evidence related to those findings.

FINDINGS RELATED TO VERTICAL SAG CURVE (TCDC 18.810.020(B))

S.W. 74th Avenue along the western border of the property is currently unimproved. The City is requiring that Windwood make certain improvements to S.W. 74th as part of its approval. Windwood does not object to the City's requirement. However, due to the topography and the existence of a stream, the improvements to S.W. 74th will result in a fairly steep sag curve and a corresponding crest curve. There are standards that define how steep sag and crest curves can be at various speeds. The steepness of the curves is expressed as a "K" value. For example, at a speed of 25 mph, the typical standards require a vertical sag "K" value of 13.4. In this case, the speed limit on S.W. 74th is 25mph. To achieve a "K" value of 13.4, Windwood would have to place a significant amount of fill in S.W. 74th to make the sag curve more shallow and the crest curve lower.

During the hearing process, Windwood provided evidence that significant fill would cause negative impacts to the resources adjacent to S.W. 74th and would create the possibility of damaging a water main under the street. Specifically, prior to Windwood's application, the City of Tualatin constructed a 36" supply line under the creek within the S.W.

74th Avenue right-of-way. In order for this line to be maintainable, the amount of earth over the line must be minimized. A 25 mile per hour design would create fills greater than 35 feet deep. This would make failures of the line extremely difficult to reach and repair, and also make a large failure have catastrophic results.

Also the fills would result in impacts to the creek, which would include removing a meander in the creek that would result in too much impact to the environment and the removal of more large trees in the sensitive area.

Windwood's consultants considered using a bridge as opposed to fill. The consultants' conclusion was that a bridge would result in an unmaintainable water line that could not be repaired or maintained under the bridge deck and would be much too expensive to construct and maintain.

Relocating the waterline is not a viable option either since it would create too much interruption in service to the City of Tualatin and would increase the difficulty of maintaining the line by placing it in the waterway

As Windwood previously presented, allowing for a lower speed limit is the only reasonable solution to the waterline construction and maintenance issue. At 15 mph, Windwood could make the required improvements using only 21.63 ft. of fill. While that means that any repair will still require some excavation, it is much less than what is required if the sag curve is designed at 25 mph.

Accordingly, Windwood proposed to lower the speed limit in the area of the sag curve to 15 mph. At that speed the sag curve "K" factor is 5. Windwood could improve S.W. 74th to meet that standard without significant fill. The City agreed with Windwood's proposal and, in the final findings, stated as follows:

The applicant also requested that the speed limit be reduced to 15 mph in the section where the S.W. 74th Avenue crossing will occur. This speed limit was accepted by the City of Tigard Engineer. The city of Tigard standards are met by a 15 mph vertical curve design to a "K" value of greater than 5 (ASSHTO).

LUBA declared the City's finding to be lacking, concluding: "The findings simply say the City engineer has accepted the proposal. Neither the city's findings nor the response brief identify any place in the record that explains the city engineer's reasoning in support of the lower "K" value or the city engineer's authority to approve deviations from the adopted "K" values. Without explanation, we must sustain this subassignment of error."



Windwood believes that there is an adequate explanation for the city engineer's authority and ample reasons for exercising that authority to deviate from the basic standards in the City's code.

Section B (City of Tigard Standard Specifications) reads: "The City Engineer shall establish standard specifications consistent with the application of engineering principles." The City's Public Improvement standards are based on ASSHTO standards and standards of Washington County. The preface to the City's design standards states: "The form has been kept brief and no attempt has been made to cover all possible situations or to provide detailed explanations." In relation to sag curves and crest curves, the Washington County standards, as set forth in tables, include speeds of less than 25 mph and speeds as low as 15 mph. Because the City's published tables are not intended to be comprehensive and because they are based on Washington County standards, Windwood believes that the city engineer has the authority to approve a design based on a 15 mph speed consistent with Washington County standards. The Washington County table confirms that Windwood's proposed design meets ASSHTO standards since Washington County designs to ASSHTO.

In fact, Windwood's proposed design exceeds Washington County's standards. Washington County's standard for both sag and crest curves require a "K" value of 5.0 at 15 mph, but is based upon the absence of street lights. Windwood's proposed design will result in a "K" value of 5.3 and also incorporates street lights.

In order to clarify the authority to "set" speed limits, Windwood's consultants contacted the State of Oregon. The speed limit is set by the State as 25 miles per hour as the normal speed limit on all residential streets. Where specific sections of streets cannot meet this standard, cities have authorization to provide design exceptions that allow for sections of streets that they are in ownership of to be constructed, reconstructed, or repaired that don't meet the speed limit standards. The State administers design exceptions on its own highways as well. According to the State, design exceptions at the state level are mitigated by using advisory signs as well as other safety measures. Jurisdictions are, therefore, allowed to post special signs and take other measures to safely control traffic.

Below are options that Windwood proposes:

Option 1:

- A. Install "Bump" sign with 15 mph advisory sign below it.
- B. Install "DIP" sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)



Option 2: Three Way Stop Intersection

- A. Install a "3-Way Stop" at the intersection of the new public road access to S.W. 74th Avenue.
- B. Install "DIP" sign with 15 mph advisory sign below it.

(Place sign in advance of crest or sag to allow safe reaction and deceleration time.)

Although Option 2 would result in a stop sign on S.W. 74th, which is a through street, this would remove the need to sign the street for 15 miles per hour at the crest since the stop sign will slow traffic to an approach speed of 15 mph at the critical location. Although this would not meet warrants for a "need" by ASSHTO standards, this would be a very effective "legal" mitigation for the crest not meeting speed design standards. These measures would qualify as a mitigation for the sag and crest.

**FINDINGS RELATED TO TREE PLAN
(TCDC 18.390.030)**

In its decision, City Council interpreted its code to require a tree plan only in situations where the applicant was required to obtain a tree cutting permit to remove trees. The City reasoned that because Windwood did not require a tree cutting permit for the majority of its site, a tree plan for the entire site was not required. Windwood did submit a tree plan related to its removal of trees in the environmentally sensitive area of the site because a permit was required to remove trees.

LUBA rejected the City's interpretation. Accordingly, Windwood understands that it is now required to submit a tree plan encompassing the entire site and which includes all of the information required in TCDC 18.390.030. The proposed attached tree plan and arborist's report establishes the trees to be saved and those to be cut. As reflected in that plan, the total number of trees that will be retained is greater than 50%; thus, 50% mitigation is required. This will be accomplished by planting trees on-site or off-site. An in-lieu-of fee will be paid for any trees not planted by site development permit issuance and shall be bonded for until they are planted or the fee paid. Additional trees may be saved during the construction of houses. If trees are saved within the bond period, we would request that the in-lieu-of fee be reduced.

A separate permit will be submitted for tree cutting within the sensitive area pursuant to TCDC 18.790.050.

FINDINGS RELATED TO ADJUSTMENTS

Windwood requested three special adjustments to street improvement and sidewalk construction standards. One adjustment allowed curb tight sidewalks on a small segment of S.W. 74th Avenue. Two of the adjustments allowed a cul-de-sac to exceed 200 feet in length and to serve 23 houses.

The City Council addressed Windwood's requested adjustment request under TCDC 18.370.020(C)(1), which is a general adjustment standard and not under TCDC 18.370.020(C)(11), which is specific to street improvements. Windwood acknowledges that in its application material it too addressed the requested adjustments under the general standard as opposed to the specific standard. In its decision, LUBA concluded that the City's findings related to the requested adjustments was insufficient in a couple of areas. LUBA also noted the difference between the two criteria and suggested that the City could consider the requested adjustments under the standards applicable to street improvements.

Consistent with LUBA's decision, Windwood will discuss its requested adjustments under both standards and, to the extent required, provide additional evidence and information under the general adjustment standards.

1. Adjustments to Streets and Sidewalks Under (TCDC 18.370.020(C)(11)).

Section TCDC 18.370.020(C)(11), the code section that addresses adjustments to street and sidewalk improvements, reads as follows:

Adjustments for the street improvement requirements Chapter 18.810: By means of a Type II procedure, as governed by section 18.390.040, the director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on the findings that the following criterion is satisfied: strict application of the standards will result in an unacceptably adverse impact on the existing development, on the proposed development, or on natural features such as wetlands, steep slopes, or existing mature trees, in approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits to strict application of the standards.

Chapter 18.810 of the Tigard Development Code, Street and Utility Improvement Standards, applies to both public and private improvements. Windwood believes that under TCDC 18.810.020(D), the adjustment criteria in TCDC 18.370.020(C)(11) applies to all street improvements, whether public or private improvements. Therefore, Windwood believes that said criteria should be used for all three requested adjustments.



a. Response to Curb Tight Sidewalk (TCDC 18.810.030(L)).

S.W. 74th Avenue crosses Ash Creek in a deep draw area. The project normally requires a section of the street with sidewalks separated from the street. Under section 18.810.070(C), planter strips are required between the street and sidewalk, except where the following exists: there are significant natural features (large trees, water features, etc.) that would be destroyed if the sidewalk were located as required. A sidewalk in strict conformance with TCDC 18.810.030(L) will require either filling the stream or increasing the size of a retaining wall already shown on the plan. Larger retaining walls will require significant footings that will encroach into the wetlands. Windwood believes that this type of development will result in an adverse impact on the stream and/or wetlands.

The curb tight sidewalk as proposed along S.W. 74th Avenue reduces the amount of impact to wetlands. Furthermore, insistence on strict application of the standards for sidewalks will not result in a public benefit that exceeds the adverse impacts to the wetlands. Curb tight sidewalks will not increase any danger to pedestrians. Traffic in the area in question will be traveling fairly slow to address the sag curve as discussed above. In addition, the sidewalks will meet the standard for sidewalk widths. Windwood has observed that curb tight sidewalks are not uncommon along other streets in Tigard. Consequently, the negative impact to the stream/wetland exceeds any marginal benefit from requiring a planter strip.

b. Response to Cul-de-sac Longer than 200 Feet (TCDC 18.810.030(L)).

Under TCDC 18.810.030, various limitations apply to cul-de-sacs: (1) they shall be no more than 200 feet long, (2) they shall not provide access to greater than 20 dwelling units, and (3) they shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation. When a cul-de-sac is used, additional standards also apply:

1. All cul-de-sacs shall terminate with a turnaround, Use of turnaround configurations other than circular, shall be approved by the City Engineer;
2. The length of a cul-de-sac shall be measures from the centerline intersection point of the two streets to the radius point of the bulb; and
3. If the cul-de-sac is more than 300 feet long, a lighted direct pathway to and adjacent street may be required to be provided and dedicated to the city.

Due to prior development patterns, there is no way to connect the private street serving the lots to adjacent streets. Accordingly, there are only two options to access the lots in the proposed subdivision: one is a cul-de-sac and one is a looped street within the subdivision. A looped

street would have to be constructed in environmentally sensitive land and would require significant excavation and/or fill. Thus, strict application of City standards would have a negative impact on natural features. Those impacts outweigh any public benefit from strict application of the standards. It would appear to Windwood that the 200-ft. requirement is not a safety standard, but rather a planning device to gain smaller block sizes. Windwood addresses this concept in more detail in its discussion of the general adjustment standards. The Tualatin Valley Fire & Rescue ("TVF&R") has reviewed Windwood's plans and indicated that the design will not negatively affect safety. Their own code allows 25 houses to be served by a single access.

2. Adjustments to Streets and Sidewalks Under TCDC 18.370.020(C)(1)(d).

As discussed above, Windwood will also discuss the requested adjustment in the context of the general adjustment standards. Windwood does not believe the City must get to this analysis in light of the applications of TCDC 18.370.020(C)(11). The criteria for general adjustments is:

Adjustments to development standards within subdivisions (Chapter 18.430). the director shall consider the application for adjustment at the same time he/she considers the preliminary plat. An adjustment may be approved, approved with conditions, or denied provided the Director finds:

- a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated;
- b. The adjustment is necessary for the proper design or function of the subdivision;
- c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and
- d. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title.

The City made findings that as to each of the adjustments Windwood requested, Windwood submitted sufficient evidence to meet each of the above criteria. LUBA disagreed as to some of the City's findings. Specifically, as to the adjustment to the sidewalk standards, LUBA held that the City's finding that the adjustment would not be detrimental to the public



health, safety and welfare or injurious to the rights of other property owners was inadequate. LUBA also held that the City's finding that the requested adjustment was necessary for the preservation and enjoyment of a substantial property right because of extraordinary hardship was insufficient.

As to the two adjustments Windwood requested to the cul-de-sac standards, LUBA held that the City's finding on a single criteria—lack of detriment to public health, safety and welfare—was inadequate.

a. Response to Curb Tight Sidewalk TCDC 18.810.030(L)

If a planter strip was placed pursuant to the City standard in the area where S.W. 74th Avenue crosses the creek, a tall retaining wall would have to be placed at the bottom of the slope to keep from encroaching into the stream. This would create a significant extra cost to an improvement which already exceeds the proportional improvement cost based on the size of the subdivision. Also, the wall would become an expensive item to be maintained by the City. This is an extraordinary hardship on the development and on the City.

Additionally, Windwood has tentatively been allowed by DSL and the Corps of Engineers to construct a culvert rather than a bridge structure because it has been able to demonstrate that it is minimizing the fill across the creek by the use of a curb tight sidewalk. If Windwood is required to construct a planter strip, it may not be able to use the culvert and will be required by the DSL and the Corps of Engineers to construct a bridge. It is an extraordinary hardship for a 29-lot subdivision to build a bridge across the creek to meet the City's road standards. Without this demonstration, the road crossing itself and the ability to develop the property at all was jeopardized. The requirement to build a bridge will not meet the proportionality test. (The curb tight sidewalk can be considered safe because the area behind the sidewalk has a flat spot which allows pedestrians to keep to the outside while walking.)

Curb tight sidewalks in the area proposed will not be detrimental to the public health, safety and welfare or injurious to the rights of other property owners. Curb tight sidewalks are used often and are an alternate location in many similar public streets throughout the city. This is not normally a safety concern. Instead, this detail is used where only a few curb cuts are proposed. Parking strips provide for street furniture and places to put mailboxes, power poles, streetlights, telephone pedestals, and power pedestals. This area does not have many of these features. In addition, as discussed above, the traffic in the area of the proposed adjustment will be traveling relatively slowly due to the topography of the road. With a normal sized sidewalk, there will not be pedestrian/vehicle conflicts.

b. Response to Cul-de-sac Length (TCDC 18.810.030(L)) (Hardship).

Granting the requested variance will not be detrimental to the public health, safety and welfare of the public. Nor will it be injurious to the rights of other property owners.



TVF&R has determined that length does not affect safety. With respect to the number of lots to be served by a cul-de-sac, Windwood understands that TVF&R makes the determination of whether the number of lots poses a safety concern. According to Eric McMullin, TVF&R requires two (2) accesses for safety is when more than 25 residential houses are served by one access. Here, that standard is met because only 23 houses will be served.

The length of a cul-de-sac is a planning issue related to an attempt to geometrically control block sizes from becoming too long. This standard allows continuity of blocks without having long dead-end streets affecting block sizes. Windwood's consultants have evaluated this issue as part of a team whose responsibility it is to evaluate the methods set by Metro to control block geometry to increase connectivity. This cul-de-sac length is probably a response to developing standards utilized by local cities and counties in the Metro region as part of a Metro planning study. Short cul-de-sacs were recommended as a way to serve internal lots in blocks with square patterns and cities and counties have implemented these standards. In actuality, the long cul-de-sac provides safety to residents of the cul-de-sac and surrounding neighbors by making the exit of robbers who have broken into houses more difficult. Police can secure an exit by blocking automobile exiting. Additionally, the Windwood's knowledge, TVF&R raised no safety concerns over the length of Windwood's proposed cul-de-sac.

Opponents of Windwood's proposal testified generally that the adjustments allowing a longer cul-de-sac that would serve more than 20 residences would increase the amount of traffic and nearby streets and then concluded with no further evidence that an increase in traffic will automatically result in decreased safety. Windwood disagrees with that conclusion. The limited number of additional vehicles that will result from the adjustments as opposed to the development itself will not automatically result in decreased safety. Without some specific evidence of how this small increase in traffic will negatively impact safety, Windwood believes the City should reject the opponents' argument.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink that reads 'Christopher P. Koback'. The signature is fluid and cursive, with the first name 'Christopher' being the most prominent part.

Christopher P. Koback

CPK/lkt

cc: Dale Richards, Windwood Construction
Gary Firestone

JAN 14 2005

CITY OF TIGARD
PLANNING/ENGINEERING

Teragan & Associates, Inc.

Terrence P. Flanagan

Arboricultural Consultants

Friday, November 19, 2004

Dale Richards
Winwood Contraction
12655 SW North Dakota St.
Tigard, OR 97223

RE: Tree Plan for Ash Creek Estates

Summary

There are a total of 778 trees greater than 12 inches in diameter on the site. 115 of those are considered to be dead, diseased or in such poor health or structural condition to not be able to survive long term. 457 of the trees greater than 12 inches diameter are planned for retention and 321 are trees planned for removal, which equals retention of 59 % of the trees being retained on site, over 50% of the total number of trees on site.

There are a total of 17,029 tree diameter inches on the site of viable trees greater than 12 inches in diameter. 6,892 diameter inches are to be removed. Given that 59 % of the healthy trees on site are to be retained; only 50% of the tree inches that are to be removed need to be mitigated for per section 18.790.030 of the City of Tigard code. This equates to the need to mitigate for 3,446 inches of tree diameter. Mitigation will be done on site and other property owned by the developer.

Limiting Conditions and Assumptions

The survey of the trees on the site was completed by the survey crew of Kurahashsi & Associates, Inc. Teragan & Associates, Inc. evaluated the located trees for; specie, size, health and structure. Teragan and Associates also checked for missed trees and worked with the survey crew to locate on the survey the missed trees to complete the tree inventory.

Trees selected for removal were determined by the owner and Kurahashsi & Associates, Inc. The trees to be removed were indicated in the tree inventory spreadsheet that was created by Teragan & Associates, Inc. by Kurahashsi & Associates, Inc. The trees to be removed were also indicated on the survey plan of the property by Kurahashsi & Associates, Inc.

Field Measurements

Please refer to appendix # 2 for the spreadsheet listing the trees over 6 inches in diameter on the site. The spreadsheet lists their diameter size as measured per industry standards, the species and the condition of the trees. Additional comments are included in the spreadsheet if warranted.

Discussion

The trees that are to be removed are due to the necessary grading to prepare the site for road improvements, utility installation, the preparation of lots for home building and other improvements. In order to allow for the greatest flexibility on home design, the individual lots are shown with most trees being removed. It is possible that depending on the final home design that is chosen, some of the trees

3145 Westview Circle • Lake Oswego, OR 97034 • (503) 697-1975 • Fax (503) 697-1976

E-mail: Terry@Teragan.com

Certified Arborist # PN-0120AT

Member, American Society of Consulting Arborists

Ash Creek Estates Subdivision
Tigard, Oregon

Page 2 of 4
11/19/2004

that are shown to be removed will not be. As indicated to me by the engineers on the project, it may be decided at a later date to retain some of the trees on each of the lots. All trees that are to be retained will need to be identified before any site work commences as they will need to be protected during any of the construction phases, including the initial site preparation and grading. Appendix # 1 outlines all the necessary steps that will need to be taken to protect the trees. It will be important when a decision to retain trees on site that the project arborist be consulted to insure that the planned use for the area will not impact the trees that are retained.

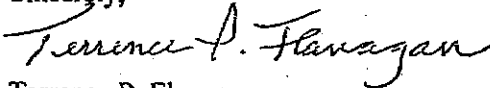
Tree protection fencing should be installed before any site work is started on the site. Where tree protection fencing may be in the way to remove nearby trees, it can be temporarily removed to allow for the falling of the trees as long as no damage to the remaining trees will occur or that no wheeled or tracked equipment is allowed within the tree protection area to remove the tree debris or logs.

Conclusion

Due to the planned removal of many of the trees off the site, mitigation for the 6,892 tree diameter inches will have to be completed. The mitigation that is proposed by the owner is not detailed in this tree plan but in another part of the application.

Please call if you have any questions or concerns regarding the information in this report.

Sincerely,



Terrence P. Flanagan
Member, American Society of Consulting Arborists
Board Certified Master Arborist #PN-0120BT

Enclosures: Appendix # 1 - Tree Protection Steps
Appendix # 2 - Tree Species Inventory

Ash Creek Estates Subdivision
Tigard, Oregon

Page 3 of 4
11/19/2004

Appendix # 1

Tree Protection Steps

It is critical that the following steps be taken to ensure that the trees that are to be retained are protected.

Before Construction Begins

1. Notify all contractors of the tree protection procedures. Have all sub contractors sign memoranda of understanding regarding the goals of tree protection. For successful tree protection on a construction site all contractors must know and understand the goals of tree protection. It can only take one mistake with a misplaced trench or other action to destroy the future of a tree.
2. Hydraulically deep root fertilize trees to aerate the soil, deep root water the tree and fertilize it with a balanced fertilizer before construction.
3. Fencing
 - a. Establish tree protection fencing around each tree or grove of trees to be retained.
 - b. The fencing is to be put in place before the ground is cleared in order to protect the trees and the soil around the trees from any disturbance at all.
 - c. Fencing is to be placed at the edge of the root protection zone. Root protection zones are to be established by the project arborist based on the needs of the site and the tree to be protected.
 - d. Fencing is to consist of 6-foot high metal fencing tied to steel posts driven into the ground or free standing with the proper support to prevent it from being moved by contractors, sagging or falling down. Plastic orange fencing may be acceptable if properly support to prevent it from sagging and acceptable by the local jurisdiction.
 - e. Fencing is to remain in the position that is established by the project arborist and not to be moved without written permission from the project arborist.
4. Signage
 - a. All tree protection fencing should have signage explaining the purpose of the fence. An example would be as follows;

Tree Protection Area
Do Not Enter
Without Written Approval From
Project Arborist or Property Owner
Teragan & Associates
503-803-0017
 - b. Signage should be place as to be visible from all sides of a tree protection area and spaced every 75 feet.

Ash Creek Estates Subdivision
Tigard, Oregon

Page 4 of 4
11/19/2004

During Construction

1. Protection Guidelines Within the Root Protection Zone
 - a. No traffic shall be allowed within the root protection zone. No vehicle, heavy equipment, or even repeated foot traffic.
 - b. No storage of materials including but not limiting to soil, construction material, or waste from the site.
 - i. Waste includes but is not limited to concrete wash out, gasoline, diesel, paint, cleaner thinners, etc.
 - c. Construction trailers are not to be parked/placed within the root protection zone without written clearance from project arborist.
 - d. No vehicles shall be allowed to park within the root protection areas.
 - e. No activity shall be allowed that will cause soil compaction within the root protection zone.
2. The trees shall be protected from any cutting, skinning or breaking of branches, trunks or roots.
3. Any roots that are to be cut from existing trees, the project consulting arborist shall be notified to evaluate and oversee the proper cutting of roots with sharp cutting tools. Cut roots are to be immediately covered with soil or mulch to prevent them from drying out.
4. No grade change should be allowed within the root protection zone.
5. Any necessary deviation of the root protection zone shall be cleared by the project consulting arborist.
6. Provide water to trees during the summer months. Tree(s) will have had root system(s) cut back and will need supplemental water to overcome the loss of ability to absorb necessary moisture during the summer months.
7. Any necessary passage of utilities through the root protection zone shall be by means of tunneling under roots.

After Construction

1. Carefully landscape in the area of the tree. Do not allow trenching within the root protection zone. Carefully plant new plants within the root protection zone. Avoid cutting the roots of the existing trees.
2. Do not plan for irrigation within the root protection zone of existing trees unless it is drip irrigation for a specific planting or cleared by the project arborist.
3. Provide for adequate drainage of the location around the retained trees.
4. Pruning of the trees should be completed as one of the last steps of the landscaping process before the final placement of trees, shrubs, ground covers, mulch or turf.
5. Provide for inspection and treatment of insect and disease populations that capable of damaging the retained trees and plants.
6. Trees should be fertilized and inoculated with mycorrhizae treatments if damaged. All other trees should also be evaluated for fertilization need at the end of the project and treated as necessary.

3145 Westview Circle • Lake Oswego, OR 97034 • (503) 697-1975 • Fax (503) 697-1976

E-mail: Terry@Teragan.com

Certified Arborist # PN-0120AT

Member, American Society of Consulting Arborists

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
2	5001	Western Red Cedar	1	29					Good	Leans West
3	5002	Douglas Fir	1	20					Good	
4	5003	Western Red Cedar	1	20					Good	
5	5004	Western Red Cedar	1	22					Fair	Decay in root at ground level, south/southwest. Suspect heart decay and rot column
6	5005	Western Red Cedar	1	19					Good	
7	5005	Douglas Fir	1	28					Good	
8	5006	Douglas Fir	1	16					Good	Healed wound with odd depression West side at 4 feet above ground level
9	5007	Western Red Cedar	1	15					Good	
10	5008	Western Red Cedar	1	13					Good	
11	5009	Douglas Fir	1	17					Good	
12	5011	Oregon Red Alder					10"		Good	
13	5012	Western Red Cedar	1	18					Good	Wound seam at ground level to 7 feet North side. Suspect rot column
14	5013	Douglas Fir	1	18					Poor	Lost top with new leader forming, high crown, suppressed growth
15	5014	Douglas Fir	1	21					Fair	Cat face East side from 12 feet to 18 feet above ground level from small windfall leaning on trunk.
16	5015	Douglas Fir	1	13					Good	Leans West
17	5015	Western Red Cedar	1	16					Good	
18	5015	Western Red Cedar	1	24					Good	
19	5016	Western Red Cedar	1	32					Good	Leans South
20	5017	Western Red Cedar	1	16					Poor	
21	5018	Western Red Cedar	1	28					Good	
22	5019	Douglas Fir	1	31					Good	High Crown
23	5020	Douglas Fir	1	18					Fair	Struggling
24	5021	Douglas Fir	1	19					Fair	Thin
25	5022	Western Red Cedar	1	20					Fair	
26	5022	Western Red Cedar	1	18					Fair	
27	5023	Western Red Cedar						1	Poor	Broken top, 23 inch dia.
28	5024	Douglas Fir	1	32					Good	Edge tree
29	5025	Western Red Cedar					11		Good	
30	5026	Western Red Cedar	1	20					Good	Edge tree
31	5027	Western Red Cedar	1	23					Fair	Thin canopy
32	5028	Oregon Red Alder					10		Good	
33	5029	Oregon Red Alder	1	12					Good	
34	5030	Western Red Cedar						1	Very Poor	Hazard/habitat tree. Main stem is dead, 45" dia.

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
35	5031	Western Red Cedar	1	18					Good	
36	5032	Western Red Cedar	1	21					Fair	Thinning
37	5033	Western Red Cedar	1	24					Fair	Severe lean Southwest. Broken top.
38	5034	Western Red Cedar	1	20					Good	
39	5035	Oregon Red Alder						1	Very Poor	16" x12 ft cavity in trunk; hazard/habitat, 41" dia.
40	5036	Western Red Cedar	1	13					Poor	Suppressed; leans West
41	5037	Western Red Cedar	1	21					Poor	In decline
42	5038	Western Red Cedar	1	14					Good	
43	5039	Oregon Red Alder	1	28					Poor	Over mature, dead limbs in top. Leans North
44	5040	Western Red Cedar	1	22					Good	Leans South
45	5041	Western Red Cedar	1	24					Fair	4" X 35 ft cavity above ground level with decay. Leans West
46	5042	Western Red Cedar						1	Very Poor	Uprooted/hazard, Leans South 30 degrees from vertical; thin crown, 29" dia.
47	5043	Western Red Cedar						1	Poor	Lost top; cavity, 18" dia.
48	5044	Western Red Cedar	1	22					Fair	10" x 48" cavity with decay from ground level North side
49	5045	Western Red Cedar	1	25					Poor	Thin crown, leans Northwest
50	5046	Western Red Cedar	1	21					Poor	Thin crown, leans West
51	5047	Western Red Cedar	1	24					Good	Leans Southeast
52	5048	Western Red Cedar	1	15					Good	
53	5049	Western Red Cedar	1	18					Good	
54	5050	Western Red Cedar	1	21					Fair	Thin crown
55	5051	Western Red Cedar	1	22					Fair	High Crown
56	5052	Douglas Fir						1	Hazard	Red ring rot. Galls at 8 feet 30 feet and 45 feet, 16" dia
57	5053	Western Red Cedar	1	36					Good	
58	5054	Western Red Cedar						1	Hazard/Very Poor	Decline. 50% decay on East side ground level to 35 feet, 16" dia..
59	5055	Western Red Cedar	1	49					Fair	2 leaders at about 35 feet
60	5056	Western Red Cedar	1	36					Good	Partially undermined by creek. Appears stable.
61	5057	Western Red Cedar						1	Hazard	Hazard/Habitat leans North, severe decay, 24" dia
62	5058	Western Red Cedar	1	34					Very Good	
63	5059	Douglas Fir	1	27					Good	
64	5060	Western Red Cedar	1	26					Poor	Decline.
65	5061	Douglas Fir	1	27					Good	High Crown
66	5062	Western Red Cedar	1	38					Good	

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
67	5063	Douglas Fir	1	32					Good	High Crown. Leans South
68	5064	Western Red Cedar	1	39					Good	
69	5065	Western Red Cedar	1	28					Fair	Electrical Conduct in ground North Side. 2" x12" cavity with decay 18" to 30" above ground level South side. Decayed root at ground level South side.
70	5066	Western Red Cedar	1	26					Good	
71	5067	Western Red Cedar						1	Very Poor	Almost dead, 17" dia
72	5068	Western Red Cedar	1	26					Fair	Leans Southwest
73	5069	Western Red Cedar	1	23					Fair	7" X 40 feet tapering cat face with decay Southwest side
74	5070	Western Red Cedar	1	24					Good	
75	5071	Bigleaf Maple	1	23					Good	
76	5072	Douglas Fir	1	24					Good	
77	5073	Western Red Cedar					10		Fair	24" root legs
78	5074	Western Red Cedar	1	16					Good	
79	5075	Western Red Cedar	1	20					Good	
80	5076	Western Red Cedar						1	Very Poor	25" x 30 feet bark peel on West side, 15" dia
81	5077	Western Red Cedar	1	26	1	26			Good	High crown
82	5078	Western Red Cedar						1	Very Poor	Hazard, cat face all the way up trunk, 25" dia
83	5079	Western Red Cedar	1	23					Good	High crown
84	5080	Western Red Cedar	1	21					poor	
85	5081	Western Red Cedar	1	42	1	42			Good	
86	5082	Western Red Cedar	1	34					Good	High crown
87	5083	Western Red Cedar	1	23					Poor	16" x 10 ft cavity from ground level South side, 6" x 10" cavity North side above ground level
88	5084	Western Red Cedar	1	21					Good	Leans West
89	5085	Western Red Cedar	1	29					Good	Seam cavity, North side
90	5086	Western Red Cedar	1	13					Good	
91	5087	Oregon Red Alder	1	14					Fair	Leans North. High crown
92	5088	Western Red Cedar	1	28					Good	High crown
93	5089	Western Red Cedar	1	15					Good	
94	5090	Western Red Cedar	1	34					Good	Mature
95	5091	Western Red Cedar	1	20					Good	
96	5092	Western Red Cedar	1	12					Fair	
97	5093	Western Red Cedar	1	24					Good	
98	5094	Western Red Cedar	1	28					Good	
99	5095	Western Red Cedar	1	45					Good	2 stems at 6 feet above ground level

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
100	5096	Western Red Cedar	1	25					Fair	Shedding bark
101	5097	Western Red Cedar	1	36					Very Good	
102	5098	Western Red Cedar	1	24					Good	High crown
103	5099	Oregon Red Alder	1	21					Fair	2 stems, 21" & 13", 13" stem dead, leans Northwest
104	5100	Oregon Red Alder						1	Very Poor	7" x 54" cat face East side starts at ground level. 10" diameter
105	5101	Western Red Cedar					10, 6		GOOD	STEMS, HIGH CROWN, 6" IS IN POOR CONDITION
106	5102	Alder					9			
107	5103	Western Red Cedar					8		GOOD	
108	5104	Western Red Cedar					8	1	VERY POOR	6" DIA
109	5105	Western Red Cedar					7		GOOD	
110	5106	Western Red Cedar					6		POOR	THIN
111	5107	Western Red Cedar					6		POOR	SUPPRESSED
112	5108	Western Red Cedar					6			
113	5109	Cedar					6			
114	5110	Bigleaf Maple					6	1	VERY POOR	BROKEN TOP, HIGH CROWN, 8" DIA
115	5111	Western Red Cedar					6		POOR	SUPPRESSED, LEANS EAST
116	5112	Western Red Cedar					6		FAIR	SUPPRESSED, LEANS NORTH
117	5113	Western Red Cedar					6		POOR	SUPPRESSED, HIGH CROWN
118	5114	Western Red Cedar					10		GOOD	HIGH CROWN
119	5115	Cedar					6			
120	5116	Western Red Cedar					6		FAIR	SUPPRESSED
121	5117	Bigleaf Maple					8		POOR	HIGH CROWN, BROKEN TOP, NEW LEADERS
122	5118	Bigleaf Maple					6		POOR	SUPPRESSED, BROKEN TOP WITH NEW LEADERS, HIGH CROWN
123	5119	Western Red Cedar					7		POOR	HIGH CROWN, SUPPRESSED
124	5120	Western Red Cedar	1	13	1	13			FAIR	HIGH CROWN
125	5121	Cedar					10			
126	5122	Maple					9			
127	5123	Maple					10			
128	5124	BIGLEAF MAPLE					6	1	VERY POOR	SUPPRESSED, 6" DIA
129	5125	Maple					9			
130	5126	Maple					7		POOR	SUPPRESSED
131	5127	BIGLEAF MAPLE					6			
132	5128	Maple					9			
133	5129	Maple					6			
134	5130	Maple								

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
135	5131	Maple					8			
136	5132	Oregon Red Alder					8		POOR	HIGH CROWN, LEANS SOUTH
137	5133	BIGLEAF MAPLE					9		FAIR	SUPPRESSED
138	5134	BIGLEAF MAPLE						1	VERY POOR	CAT FACE NORTH SIDE WITH DECAY STARTS AT 18' ABOVE GROUND LEVEL, 6" X 24" CAT FACE WITH DECAY SOUTH SIDE STARTS AT 18" ABOVE GROUND LEVEL, 7" DIA
139	5135	Maple					9			
140	5136	Maple					7			
141	5137	Maple					6			
142	5138	Cedar					9			
143	5139	Fir					8			
144	5140	Maple					10			
145	5141	BIGLEAF MAPLE					6		POOR	SWEEP, 2 FT NORTH OF #5142
146	5142	WESTERN RED CEDAR						1	VERY POOR	HAZARDOUS, 10 FTNORTHEAST OF #5725, MAIN STEM 50% DECAYED, 15"X8" CAVITY ON SOUTH SIDE, 11" DIA
147	5143	Maple					9			
148	5144	BIGLEAF MAPLE					9		FAIR	LEANS WEST
149	5145	Maple					10			
150	5146	Cedar					6			
151	5147	Cedar					10			
152	5148	Birch					7			
153	5149	Cedar					11			
154	5150	Fir					10			
155	5151	Maple					6			
156	5152	Maple					6			
157	5153	Western Red Cedar					8		POOR	SUPPRESSED
158	5154	Western Red Cedar					8		POOR	SUPPRESSED
159	5155	Western Red Cedar					11		FAIR	ROOT LEG SOUTH SIDE
160	5156	Maple					11			
161	5157	Cedar					8			
162	5158	OREGON RED ALDER		7,11	1	13			POOR	12 FT EAST OF #5953, 2 STEMS, SEVERE LEAN NORTH, OOZE AT 7 FT ABOVE GROUND LEVEL FROM 11" STEM
163	5159	Cedar					8			
164	5160	Maple					6			
165	5161	OREGON RED ALDER					6		POOR	17 FT EAST OF #5953, SUPPRESSED

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
166	5162	OREGON RED ALDER					9		POOR	7 FT SOUTH #5953, LEANS WEST, HIGH CROWN
167	5163	WESTERN RED CEDAR					9		POOR	8 FT SOUTH #5953, SUPPRESSED
168	5164	Western Red Cedar					6		POOR	SUPPRESSED
169	5165	Cedar					8			
170	5166	Maple	1	12						
171	5167	Cedar					6			
172	5168	Cedar					8			
173	5169	Hawthorne						1	VERY POOR	SEVERE LEAN NORTH, 4", 6" AND 7" DIA
174	5170	Cedar					6			
175	5171	Cedar					10			
176	5172	Alder					11			
177	5173	BIGLEAF MAPLE					10			BROKEN TOP WITH NEW LEADER
178	5174	Western Red Cedar					9		FAIR	
179	5175	Western Red Cedar					8		POOR	HIGH CROWN, SEVERE INCLUSION IN CROWN
180	5176	Western Red Cedar					6		POOR	SUPPRESSED
181	5177	Maple					9			
182	5178	Maple					6			
183	5179	Oregon Red Alder						1	VERY POOR	HIGH CROWN, DEAD TOP, 8" DIA
184	5180	Oregon Red Alder					9		POOR	HIGH CROWN, CAVITY FORMING EAST SIDE 2" X 3", 18" TO 48" ABOVE GROUND LEVEL
185	5181	Oregon Red Alder						1	HAZARDOUS	HAZARD, SEVERE LEAN AND SWEEPS, HIGH CROWN, 7" DIA
186	5182	Maple					10			
187	5183	Alder					8			
188	5184	Maple					6			
189	5185	Alder					11			
190	5186	Alder					11			
191	5187	Cedar					10			
192	5188	Maple	1	12	1	12				
193	5189	Cedar					6			
194	5190	Cedar					8			
195	5191	Maple	1	12	1	12				
196	5192	Maple		11,8	1	14				
197	5193	Alder					10			
198	5194	Alder					7			
199	5195	Alder					11			
200	5196	Cedar					6			

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
201	5197	Oregon Red Alder					8		POOR	FORMS CORNOR OF TREE FOOT, HIGH CROWN
202	5198	Alder					8			
203	5199	Oregon Red Alder	1	13	1	13			GOOD	LEANS SOUTH
204	5201	Western Red Cedar	1	24					Good	High crown
205	5203	Western Red Cedar	1	27	1	27			Good	High crown 4" x 48" cavity with decay South side
206	5204	Bigleaf Maple	1	17	1	17				
207	5205	Western Red Cedar						1	Very Poor	Hazardous, severe decay, secondary borer infestation, 17" dia
208	5205A	Western Red Cedar						1	Very Poor	1 foot East #5205. Hazardous, sever decay, 29" dia.
209	5206	Oregon White Oak	1	26	1	26			Good	
210	5207	Cherry	1	12	1	12			Good	
211	5208	Western Red Cedar	1	31	1	31			Good	Edge tree
212	5209	Douglas Fir	1	40					Good	High crown
213	5210	Bigleaf Maple	1	14					Poor	Leans South. Dead top
214	5211	Cherry	1	18	1	18			Fair	
215	5212	Western Red Cedar	1	22	1	22			Good	High crown
216	5213	Western Red Cedar	1	25	1	25			Good	High crown
217	5214	Western Red Cedar	1	47					Good	Lost top with new leaders formed
218	5217	Western Red Cedar	1	20					Good	High crown
219	5218	Western Red Cedar	1	32	1	32			Good	High crown
220	5219	Douglas Fir	1	15	1	15			Fair	High crown
221	5220	Western Red Cedar	1	19	1	19			Fair	High crown
222	5221	Western Red Cedar	1	31					Good	Edge tree
223	5222	Douglas Fir	1	33	1	33			Good	High crown
224	5223	Western Red Cedar	1	21					Good	High crown
225	5224	Western Red Cedar	1	17	1	17			Fair	High crown
226	5225	Western Red Cedar								Not on property, 24" dia.
227	5226	Western Red Cedar	1	29	1	29			Good	
228	5227	Western Red Cedar	1	15	1	15			Good	High crown
229	5228	Oregon Red Alder	1	22	1	22			Fair	High crown. Leans West; over mature
230	5229	Oregon Red Alder	1	20	1	20			Poor	Leans North. Over mature.
231	5230	Oregon Red Alder	1	20	1	20			Poor	2" X 15" decay cavity 2 feet above ground level, West side
232	5231	Western Red Cedar		30						Not on property
233	5232	Oregon Red Alder	1	17	1	17			Poor	Dead top. Over mature
234	5233	Western Red Cedar	1	38	1	38			Good	

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
										7" x 12" burl on 9" stem at 5 feet above ground level. 4 stems, 6" x 8" burl on 15" stem at 5 feet above ground level, 12,9,12,15" stems.
235	5234	Cherry	1	24	1	24				
236	5235	Western Red Cedar	1	30	1	30			Good	High crown
237	5236	Western Red Cedar	1	29	1	29			Good	High Crown
238	5237	Western Red Cedar	1	30	1	30			Fair	2 leaders at 35 feet. High crown.
239	5238	Western Red Cedar	1	20	1	20			Good	
240	5239	Alder						1	Dead	20' tall dead trunk, 14" dia.
241	5240	Oregon Red Alder	1	19	1	19			Poor	Mature, leans West
242	5241	Western Red Cedar	1	18	1	18			Fair	Rubs #5240
243	5242	Western Red Cedar	1	24	1	24			Good	High crown
244	5243	Oregon Red Alder						1	Very Poor	2 stems. High crown, 10" stem severe decline, 21"/10" dia., two stem tree
245	5244	Oregon Red Alder	1	13	1	13			Fair	High crown
246	5245	Oregon Red Alder	1	23	1	23			Good	High crown. Leans North
247	5246	Western Red Cedar	1	19	1	19			Dead	
248	5247	Western Red Cedar	1	39	1	39			Good	Edge tree
249	5248	Western Red Cedar						1	Very Poor	Hazard. Trunk split through from 3 feet above ground level to 15 feet above ground level, 16" dia.
250	5249	Western Red Cedar								Not on property, 16" diameter, double leader at 35'
251	5250	Western Red Cedar	1	23	1	23			Fair	High crown. Thinning crown
252	5251	Western Red Cedar								Not on property, 24 " diameter
253	5252	Western Red Cedar								Not on property, 20 " diameter
254	5253	Western Red Cedar	1	24	1	24			Fair	High crown
255	5254	Western Red Cedar							Good	Not on property, 27" diameter
256	5255	Western Red Cedar	1	29	1	29			Good	High crown
257	5256	Western Red Cedar	1	30	1	30			Fair	Bulge and distortion in trunk at 9 feet above ground level
258	5257	Western Red Cedar	1	17	1	17			Good	High crown
259	5258	Oregon Red Alder	1	11					Poor	High crown; bark inclusion at 10 feet above ground level at stem break
260	5259	Douglas Fir	1	31	1	31			Good	
261	5260	Western Red Cedar	1	35	1	35			Good	
262	5261	Oregon Red Alder	1	17	1	17			Good	Mature
263	5262	Oregon Red Alder	1	12					Good	High crown
264	5263	Western Red Cedar	1	14					Poor	Broken top with new leaders
265	5264	Oregon Red Alder						1	Very Poor	2 stems; thin crown, 10", 6" dia., two stems

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
266	5265	Hawthorne	1	13					Poor	Leans Northwest 80 degrees
267	5266	Oregon Red Alder					11		Good	High crown
268	5267	Douglas Fir	1	29	1	29			Good	
269	5268	Oregon Red Alder	1	16	1	16			Fair	Mature leans South 20 degrees
270	5269	Oregon Red Alder	1	15	1	15			Good	2 stem 11", 10" dia., high crown leans Southwest
271	5270	Oregon Red Alder						1	Very Poor	Broken top, in decline, 18" dia.
272	5271	Oregon Red Alder	1	30	1	30			Poor	2 stems, high crown, bark inclusion, 12", 14" diameter stems
273	5272	Bigleaf Maple	1	17	1	17			Good	
274	5273	Oregon Red Alder					11		Poor	High crown, leans West
275	5274	Western Red Cedar	1	19	1	19			Poor	Broken top with new leaders
276	5275	Western Red Cedar	1	17	1	17			Fair	
277	5276	Western Red Cedar	1	15	1	15			Poor	2 stems, root legs, 10", 11" stems
278	5277	Douglas Fir	1	30					Good	
279	5278	Western Red Cedar	1	31	1	31			Fair	Lost top with new leaders
280	5279	Oregon Red Alder	1	13	1	13			Fair	High crown
281	5280	Western Red Cedar	1	22					Good	Leans North
282	5281	Oregon Red Alder					10		Poor	High crown
283	5282	Oregon Red Alder					10		Poor	High crown, cat face 2" x 9" West side at 18" above ground level
284	5283	Western Red Cedar	1	31	1	31			Fair	Old broken top with new leaders
285	5284	Western Red Cedar	1	28	1	28			Poor	2 stems, broken top with new leaders, 27" & 9" stems
286	5285	Oregon Red Alder	1	18	1	18			Poor	2 stems, severe inclusion between stems, high crown, 11" & 14" dia. Stems
287	5286	Oregon Red Alder	1	26	1	26			Fair	3 stems; 10" stem leans North 20 degrees, 13", 102 stems, severe inclusion between stems, high crown, 11" & 14" dia. 13", 11", 10" stems
288	5287	Douglas Fir	1	32	1	32			Good	
289	5288	Oregon Red Alder	1	18					Good	Mature, leans South 15 degrees
290	5289	Bigleaf Maple	1	29	1	29			Good	
291	5290	Oregon White Oak	1	22					Good	Heavy Ivy load
292	5291	Western Red Cedar	1	45	1	45			Fair	Broken top
293	5292	Western Red Cedar	1	13	1	13			Poor	Suppressed, broken top with new cedars
294	5293	Oregon Red Alder	1	21	1	21			Fair	Mature, leans South
295	5294	Douglas Fir	1	33					Good	High crown
296	5295	Bigleaf Maple	1	15	1	15			Poor	High crown
297	5296	Western Red Cedar	1	12	1	12			Poor	2 stems; suppressed, 9", 8" dia. stems

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
298	5297	Bigleaf Maple	1	26					Good	
299	5298	Western Red Cedar	1	26					Fair	Thinning crown
300	5299	Oregon Red Alder	1	16					Good	High crown
301	5300	Western Red Cedar	1	15					Good	
302	5301	Western Red Cedar	1	30					Fair	Sweep and crook in trunk, 1" x 8 ft cavity Southwest side at 20 feet above ground level
303	5302	Western Red Cedar	1	26					Good	High crown
304	5303	Western Red Cedar	1	26					Good	High crown
305	5304	Western Red Cedar	1	29					Good	High crown
306	5305	Douglas Fir	1	21					Good	High crown
307	5306	Western Red Cedar	1	23					Good	
308	5307	Western Red Cedar	1	25					Good	
309	5308	Western Red Cedar	1	17					Good	High crown
310	5308AU	Western Red Cedar	1	28					Fair	Broken top with new leader
311	5309	Oregon Red Alder					11		Poor	High crown; leans North
312	5310	Western Red Cedar	1	18					Good	
313	5311	Douglas Fir	1	27					Good	
314	5312	Western Red Cedar	1	16					Poor	Thin crown; high crown
315	5313	Douglas Fir	1	31					Good	High crown
316	5314	Western Red Cedar						1	Very Poor	Broken top, 22" dia.
317	5315	Western Red Cedar	1	23	1	23			Good	High crown
318	5316	Western Red Cedar						1	Very Poor	Not on property, broken top, 24" tree
319	5317	Western Red Cedar	1	21					Good	High crown
320	5318	Western Red Cedar	1	22					Good	High crown
321	5319	Western Red Cedar	1	19					Good	High crown
322	5320	Douglas Fir		29					Good	Not on Property, high crown
323	5321	Oregon Ash	1	12					Good	
324	5322	Western Red Cedar	1	22					Dead	
325	5323	Western Red Cedar	1	20					Good	High crown
326	5324	Western Red Cedar						1	Dead	35" dia.
327	5325	Western Red Cedar		15					Poor	Not on property, broken top with new leaders
328	5326	Western Red Cedar	1	29					Poor	Broken top
329	5327	Western Red Cedar						1	Dead	17" dia.
330	5328	Oregon Red Alder	1	16					Fair	Mature; 4" x 8" limb cavity at 15 ft. above ground level East side; high crown
331	5329	Western Red Cedar	1	14					Poor	Suppressed
332	5330	Western Red Cedar						1	Very Poor	Thin crown; broken top, 18" dia.
333	5331	Western Red Cedar	1	29					Fair	Thinning crown; high crown
334	5332	Western Red Cedar	1	16					Dead	
335	5333	Western Red Cedar	1	22					Poor	Thin crown; high crown

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
336	5334	Western Red Cedar	1	35					Good	
337	5335	Western Red Cedar	1	20					Poor	Broken top with new leaders; thin crown; high crown
338	5336AU	Western Red Cedar	1	23					Dead	
339	5336	Western Red Cedar						1	Very Poor	Broken top, 15" dia.
340	5337	Western Red Cedar	1	25					Poor	Broken top; thin crown
341	5338	Bigleaf Maple	1	12					Poor	High crown; thin crown
342	5339	Western Red Cedar	1	21					Dead	
343	5340	Western Red Cedar	1	20					Dead	
344	5341	Western Red Cedar	1	12					Dead	
345	5342	Western Red Cedar						1	Very Poor	Thin crown, 21 dia.
346	5343	Western Red Cedar	1	12					Dead	
347	5344	Western Red Cedar						1	Very Poor	Thin crown, 20" dia
348	5345	Oregon Ash	1	28					Good	Over mature
349	5346	Western Red Cedar	1	19					Poor	Broken top
350	5348	Western Red Cedar	1	26					Fair	Broken top
351	5349	Western Red Cedar		18						Not on Property
352	5350	Western Red Cedar	1	13					Dead	
353	5351	Western Red Cedar	1	27					Poor	Broken top
354	5352	Western Red Cedar						1	Very Poor	Broken top; 12" cavity Southeast side ground level to 12 feet above ground level, 26" dia
355	5353	Western Red Cedar	1	15					Poor	Thin crown
356	5354	Western Red Cedar						1	Dead	12" dia.
357	5355	Douglas Fir	1	30					Good	
358	5356	Oregon Red Alder	1	21					Fair	High crown; over mature; thinning crown
359	5357	Western Red Cedar	1	35					Fair	Broken top with new leaders
360	5358	Douglas Fir	1	20					Fair	High crown; offset in trunk at 50 feet above ground level
361	5359	Oregon Red Alder	1	13					Dead	Broken at 50 feet above ground level; hazard
362	5360	Western Red Cedar	1	26					Good	
363	5361	Douglas Fir	1	24					Good	High crown
364	5362	Western Red Cedar						1	Very Poor	Broken top, 20" dia.
365	5363	Western Red Cedar	1	16					Good	
366	5364	Douglas Fir	1	38					Good	Leans South
367	5365	Western Red Cedar	1	38					Fair	12" x 24" cavity at ground level North side
368	5366AU	Bigleaf Maple	1	18					Poor	Thin crown; many burls on trunk; leans South
369	5366	Oregon Red Alder						1	Dead	Hazard; Severe lean South, 14" dia.
370	5367	Western Red Cedar						1	Very Poor	Not on property, dead top, 27 " dia.

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
371	5368	Western Red Cedar						1	Very Poor	Hazard/Habitat; many woodpecker holes; broken top, 19" dia.
372	5369	Western Red Cedar	1	30					Fair	Old broken top with new leaders
373	5370	Bigleaf Maple	1	26					Poor	2 stems; high crown; over mature; some die back in top, 20", 17" dia. Stems
374	5371	Bigleaf Maple					11		Poor	Broken top with new leaders
375	5372	Western Red Cedar						1	Very Poor	Broken top, 28" dia
376	5373	Western Red Cedar	1	14					Good	
377	5374	Oregon Red Alder						1	Very Poor	Broken top; 30 degree leans South, 15"
378	5375	Douglas Fir	1	17					Good	High crown
379	5376	Western Red Cedar	1	23					Poor	Broken top
380	5377	Western Red Cedar	1	16					Poor	Thin crown; 2" x 7 ft cavity above ground level
381	5377BS	Douglas Fir	1	26					Poor	Sweep in trunk; leans South; offset in trunk at 35 feet above ground level
382	5377AS	Western Red Cedar					10		Poor	Thin crown; 2" x 1 ft cavity on North side
383	5378	Douglas Fir	1	35					Good	High crown
384	5379	Douglas Fir	1	24					Good	High crown
385	5380	Western Red Cedar	1	15					Poor	Sweep in lower trunk; woodpecker holes
386	5381	Western Red Cedar	1	22					Fair	Old broken top with new leaders
387	5382	Western Red Cedar	1	13					Fair	Suppressed
388	5383	Western Red Cedar	1	17					Good	
389	5384	Bigleaf Maple	1	27	1	27			Fair	Mature; old broken top with new leaders
390	5385	Western Red Cedar	1	58	1	58			Fair	Old broken top with new leaders
391	5386	Western Red Cedar	1	16					Good	High crown
392	5387	Oregon Red Alder	1	25	1	22			Poor	18"x40" broken stem cavity on North side oversee sturdy high crown
393	5388	Western Red Cedar	1	29	1	29			Fair	Old broken top with new leaders; 2" x 12" cavity North side at 6 feet above ground level
394	5389	Western Red Cedar	1	35					Good	High crown
395	5390	Western Red Cedar	1	25					Good	
396	5391	Western Red Cedar	1	31					Fair	Old broken top with new leaders
397	5392	Western Red Cedar	1	22	1	22			Good	High crown
398	5393	Bigleaf Maple	1	20					Fair	Mature; sweep in lower trunk; leans West
399	5394	Western Red Cedar	1	27					Poor	Thin crown
400	5395	Bigleaf Maple	1	12	1	12			Good	High crown
401	5396	Cherry	1	24	1	24			Fair	Mature; high crown
402	5397	Douglas Fir	1	23	1	23			Good	
403	5398	Western Red Cedar	1	28					Good	

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
404	5399	Western Red Cedar	1	45	1	45			Fair	Broken top; 12" x 36" cavity East side above ground level
405	5400	Oregon Red Alder	1	12					Fair	High crown; leans South
406	5401	Western Red Cedar	1	17					Poor	Broken top with new leaders at 30 feet above ground level
407	5402	Western Red Cedar	1	36					Good	
408	5403	Oregon Red Alder	1	13					Poor	High crown; thinning crown
409	5404	Douglas Fir						1	Very Poor	36" x 36" burl/gall at ground level West side; 8" diameter gall at 10 feet above ground level West side; high crown; many galls in crown; thin crown, 15" dia.
410	5405	Western Red Cedar	1	21					Good	High crown
411	5406	Oregon Red Alder						1	Very Poor	Over mature; severe lean to South, 23" dia.
412	5407	Bigleaf Maple					11		Fair	High crown
413	5408	Douglas Fir	1	28					Good	High crown
414	5409	Oregon Red Alder						1	Dead	Hazard; Bark is sloughing, 20" dia.
415	5410	Western Red Cedar						1	Very Poor	Hazard/Habitat; Broken top with new leaders; 15" x 17 feet cavity North side, 17" dia.
416	5411	Western Red Cedar	1	19					Good	
417	5412	Western Red Cedar						1	Very Poor	Broken top with new leaders; thinning crown; hazard/habitat, 36" dia.
418	5413	Western Red Cedar						1	Very Poor	13" x 40 ft cavity North side from ground level, 16" dia
419	5414	Bigleaf Maple	1	16					Fair	High crown; old wound seam West side
420	5415	Bigleaf Maple	1	15					Poor	High crown; broken top with new leaders
421	5416	Western Red Cedar	1	25					Fair	
422	5417	Douglas Fir	1	28					Poor	Bulges at 20 ft, 25 ft, 30 ft, 35 ft, and 40 ft above ground level North east side; dead limbs; high crown; thinning crown; possible broken top
423	5418	Western Red Cedar	1	15					Poor	Broken top with new leader
424	5419	Western Red Cedar	1	20					Good	
425	5420	Western Red Cedar	1	16					Poor	Broken top with new leaders
426	5421	Oregon Red Alder						1	Dead	11" dia.
427	5421	Western Red Cedar	1	24					Poor	
428	5422	Oregon Red Alder	1	18					Poor	Over mature
429	5423	Oregon Red Alder	1	13	1	13			Fair	Tag is missing; leans South
430	5424	Western Red Cedar	1	33					Good	1 1/2" x 6" blaze South side 40 feet above ground level

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
431	5425	Oregon Red Alder	1	15					Fair	High crown
432	5426	Oregon Red Alder	1	12	1	12			Fair	High crown
433	5427	Oregon Red Alder	1	12	1	12			Fair	
434	5428	Oregon Red Alder					11		Poor	High crown
435	5429	Douglas Fir	1	19					Good	
436	5430	Oregon Red Alder	1	15					Poor	Thinning crown; high crown
437	5431	Western Red Cedar	1	16					Poor	Broken top with new leaders
438	5432	Oregon Red Alder	1	13	1	13			Fair	High crown
439	5433	Western Red Cedar	1	18					Poor	Broken top with new leaders
440	5434	Oregon Red Alder	1	17	1	17			Fair	High crown
441	5435	Oregon Red Alder						1	Very Poor	High crown; dead top; Hazard, 11" dia.
442	5436	Western Red Cedar						1	Dead	25" dia.
443	5437	Oregon Red Alder	1	12	1	12			Fair	High crown
444	5438	Oregon Red Alder	1	19	1	19			Poor	2 stems, 15" & 12" dia., forms two corners of tree fort; 10" x 40" cat face at 10 feet above ground North side of 15" stem; 3" x 36" cat face East side 12" stem; 10" x 50" cat face on South side 12" stem at 12 feet above ground level
445	5439	Oregon Red Alder	1	15	1	15			Good	
446	5440	Oregon Red Alder	1	17					Fair	Leans North
447	5441	Western Red Cedar	1	14					Fair	Sweep in trunk
448	5442	Western Red Cedar	1	32					Good	
449	5443	Western Red Cedar	1	39					Poor	Broken top; habitat
450	5444	Oregon Red Alder	1	16					Fair	Leans Southeast
451	5445	Oregon Red Alder	1	15					Good	
452	5446	Oregon Ash						1	Dead	11" dia.
453	5447	Western Red Cedar	1	29					Good	
454	5448	Western Red Cedar	1	29					Good	
455	5449	Western Red Cedar	1	28					Fair	Broken top with new leaders
456	5450	Western Red Cedar	1	25					Fair	Thinning crown
457	5451	Western Red Cedar						1	Dead	Broken at 20 feet above ground level, 20"
458	5452	Western Red Cedar	1	27					Good	
459	5453	Cherry	1	13					Poor	Epicormics; high crown; unusual swelling at 3 feet above ground level North side
460	5454	Western Red Cedar	1	36					Fair	24" x 5 ft cavity at ground level West side
461	5455	Oregon Ash						1	Very Poor	Hazard; 19" diameter open cavity ground level to 15 feet and dead scaffolds, 30" dia
462	5456	Western Red Cedar	1	15					Good	High crown
463	5457	Western Red Cedar	1	16					Good	High crown

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
464	5458	Western Red Cedar	1	28					Poor	9" x 7 ft cavity at ground West side; broken top with new leaders
465	5459	Oregon Red Alder	1	15					Fair	High crown
466	5460	Oregon Red Alder	1	16					Fair	Leans West
467	5461	Oregon Red Alder					11		Fair	Leans West
468	5462	Western Red Cedar	1	22					Very Poor	Broken top; thinning crown
469	5463	Western Red Cedar	1	16					Good	field tagged 5473
470	5464	Western Red Cedar						1	Very Poor	Broken top, 26" dia.
471	5465	Oregon Red Alder						1	Poor	Severe lean with correction South 45 degrees; limbs with top; Hazard, 13"
472	5466	Western Red Cedar	1	15					Good	
473	5467	Oregon Red Alder	1	12					Good	High crown
474	5468	Western Red Cedar								NOT USED
475	5469	Oregon Red Alder	1	12					Poor	Leans North; broken top; suspect decay column
476	5470	Western Red Cedar	1	13					Good	
477	5471	Douglas Fir	1	19					Good	High crown
478	5472	Douglas Fir	1	18					Fair	High crown, sweep in lower trunk, 13 ft East of #5487, same as #6000
479	5474	Western Red Cedar	1	25					Poor	Broken top; cavity formed South side 10 feet above ground level to top;
480	5475	Western Red Cedar	1	36					Poor	Deep inclusion between 2 leaders; one leader is dead, decay and die back is growing out very old spring board stump
481	5476	Western Red Cedar	1	18					Poor	Broken top with new leaders
482	5477	Western Red Cedar	1	18					Good	
483	5478	Western Red Cedar	1	32					Good	
484	5479	Western Red Cedar	1	13					Good	
485	5480	Oregon Ash	1	14					Poor	Over mature; thin crown; high crown
486	5481	Western Red Cedar	1	14					Poor	1/2" x 24" cavity East side at 9 feet above ground level; thin crown; high crown
487	5482	Western Red Cedar						1	Very Poor	Die back in crown; thin crown, 11"
488	5483	Western Red Cedar	1	36					Poor	Broken top; hollow; 10" x 20 ft cavity East side
489	5484	Western Red Cedar	1	38					Good	
490	5485	Western Red Cedar	1	15					Poor	6" x 40" cat face East side at ground level; broken top with new leaders
491	5486	Western Red Cedar	1	33					Fair	8" x 18" cavity ground level Northwest side
492	5487	Western Red Cedar	1	24					Fair	
493	5488	Western Red Cedar	1	14					Fair	Top is growing into #5479

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
494	5489	Oregon Red Alder						1	Dead	16" dia.
495	5490	Oregon Red Alder						1	Dead	11' dia.
496	5491	Western Red Cedar	1	23					Good	
497	5492	Western Red Cedar	1	15					Good	Measured at 5 feet above ground level
498	5493	Western Red Cedar	1	18					Good	
499	5494	Western Red Cedar	1	17					Good	2 stems, 15" 7 8" dia.
										High crown; burl at 20 feet above ground level on North side
500	5495	Douglas Fir	1	22					Fair	
501	5496	Oregon Red Alder	1	16					Good	
502	5497	Douglas Fir	1	12					Poor	Suppressed
503	5498	Western Red Cedar	1	24					Poor	Thinning crown
504	5499	Western Red Cedar						1	Very Poor	90% die back in crown, 27" dia
505	5500	Western Red Cedar	1	15					Good	Bears tag #5468
506	5501	Douglas Fir	1	20					Good	High crown
507	5502	Douglas Fir	1	22					Fair	High crown
508	5503	Willow					11"		Poor	Broken top
										Broken top; decay in roots at ground level on West side, 15" dia
509	5504	Western Red Cedar						1	Very Poor	Not on property, slight leans off property
510	5505	Oregon Red Alder		13					Good	
511	5506	Western Red Cedar	1	23					Good	
512	5507	Western Red Cedar	1	12					Fair	One sided
513	5508	Western Red Cedar	1	27	1	27			Fair	
514	5509	Pine		17						Not on property, leans south
										Broken top with new leader; entire South side decayed, 13" dia.
515	5510	Western Red Cedar						1	Very Poor	
516	5511	Western Red Cedar	1	15	1	15			Fair	Thin crown, 8" x 48" cavity Southeast side
517	5512	Western Red Cedar	1	18					Fair	
518	5513	Bigleaf Maple	1	12					Fair	
519	5514	Western Red Cedar						1	Dead	29" dia
520	5515	Western Red Cedar	1	24					Good	
521	5516	Western Red Cedar	1	20					Good	
522	5517	Western Red Cedar	1	27					Good	
523	5518	Douglas Fir	1	24					Good	High crown
524	5519	Western Red Cedar	1	21					Poor	Broken top with new leaders
										Old broken top with new leaders; ferns growing inside of trunk; leans South
525	5520	Bigleaf Maple	1	16					Fair	
526	5521	WESTERN RED CEDAR		24						
527	5522	Oregon Red Alder					11		Poor	High crown; leans South
528	5523	Oregon Red Alder	1	12				1	Dead	Uprooted laying on ground

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
529	5524	Oregon Ash	1	21					Fair	High crown; mature; dead side stem at 40 feet above ground level
530	5525	Western Red Cedar	1	29	1	29			Very Good	East of shed
531	5526	Bigleaf Maple	1	22					Fair	Epicormics and burls, broken top with new leaders
532	5527	Western Red Cedar	1	19					Fair	Thinning crown
533	5528	Western Red Cedar	1	21					Fair	Broken top with new leaders
534	5529	Bigleaf Maple	1	19					Fair	13" & 14" dia. stems, Leans South
535	5530A	Western Red Cedar						1	Very Poor	Dead top, 13" dia.
536	5530	Western Red Cedar						1	Very Poor	Dead top, 17" dia.
537	5531	Western Red Cedar	1	17					Fair	Thinning crown
538	5532	Oregon Red Alder	1	20					Fair	Mature; thinning crown; leans South
539	5533	Western Red Cedar						1	Dead	31" dia
540	5534	Bigleaf Maple					11		Fair	High crown
541	5535	Western Red Cedar	1	23					Fair	12" x 60" cavity West side at 12 feet above ground level
542	5536	Oregon Ash	1	28					Fair	Over mature; epicormics; thinning crown
543	5537	Oregon Red Alder	1	15					Poor	Leans South; mature; rubs against #???
544	5538	Western Red Cedar	1	24						Lost top, thin crown
545	5539	Bigleaf Maple	1	15					Fair	Leans South
546	5540	Douglas Fir	1	22					Poor	Broken top with new leader; burls on South side at 10 feet and 14 feet above ground level
547	5541	Western Red Cedar	1	16					Poor	Broken top with new leader
548	5542	Western Red Cedar	1	17					Good	
549	5543	Bigleaf Maple	1	13					Good	Leans South
550	5544	Western Red Cedar						1	Dead	31" dia
551	5545	Western Red Cedar	1	22	1	22			Good	
552	5546	Western Red Cedar	1	23	1	23			Good	
553	5547	Western Red Cedar	1	16	1	16			Good	
554	5548	Western Red Cedar	1	27	1	27			Good	
555	5549	Western Red Cedar	1	28	1	28			Good	
556	5549A	Western Red Cedar					11		Good	7' North of # 5549
557	5600	Western Red Cedar	1	36	1	36			Fair	Tapering burl cavity West side ground to 8 feet; 6" wide at ground level
558	5601	Western Red Cedar						1	Dead	16" dia
559	5602	Douglas Fir	1	19					Fair	High crown; possible ???
560	5603	Western Red Cedar	1	22					Fair	Thin crown.
561	5604	Western Red Cedar						1	Very Poor	Thin crown; one tree, 12" dia.
562	5605	Western Red Cedar						1	Very Poor	Almost dead, 13' dia
563	5606	Western Red Cedar	1	12	1	12			Poor	Suppressed

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIAABLE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
564	5607	Douglas Fir	1	28					Good	
565	5608	Douglas Fir	1	21					Good	Leans to the South slightly
566	5609	Douglas Fir	1	17					Good	High crown; leans Southeast
567	5610	Western Red Cedar	1	12					Poor	Suppressed
568	5611	Western Red Cedar	1	22					Fair	Secondary top at 25 feet
569	5612	Douglas Fir	1	25					Good	
570	5613	Western Red Cedar								NOT USED
571	5614	Western Red Cedar	1	17					Good	High crown
572	5615	Western Red Cedar	1	31					Good	
573	5616	Western Red Cedar	1	35					Good	
574	5617	Western Red Cedar	1	15					Good	Tag missing
575	5618	Western Red Cedar	1	19					Good	High crown
576	5619	Western Red Cedar	1	19					Good	High crown
577	5620	Western Red Cedar	1	27					Good	High crown
578	5621	Western Red Cedar	1	40					Good	
579	5622	Western Red Cedar	1	28					Good	High crown
580	5623	Western Red Cedar	1	25					Good	High crown
581	5624	Western Red Cedar	1	25					Poor	Thin crown, high crown, leans East
582	5625	Western Red Cedar	1	28					Good	
583	5626	Western Red Cedar	1	29					Good	High crown, leans Southeast
584	5627	Western Red Cedar	1	12					Fair	Tag missing
585	5628	Western Red Cedar					11		Good	
586	5629	Western Red Cedar	1	40					Poor	Broken with new leaders; leans Southwest
587	5630CS	Western Red Cedar	1	16					Fair	High crown
588	5630BS	Western Red Cedar	1	18					Fair	High crown; thinning crown
589	5630AS	Western Red Cedar	1	26					Fair	High crown; thinning crown
590	5630	Western Red Cedar	1	27					Fair	High crown; thin crown
591	5631	Western Red Cedar	1	25					Good	High crown
592	5632	Western Red Cedar	1	28					Good	High crown; leans Northeast
593	5633	Western Red Cedar	1	28					Good	High crown
594	5634	Western Red Cedar						1	Dead	Hazard, 17" dia
595	5635	Western Red Cedar	1	12					Fair	High crown
596	5636	Western Red Cedar	1	24					Good	
597	5637	Oregon Red Alder	1	21					Poor	Epicormics and burls on trunk, mature
598	5638	Oregon Red Alder	1	23					Fair	Leans West 30 degrees from vertical, high crown, mature
599	5639	Western Red Cedar	1	15					Good	High crown
600	5640	Western Red Cedar	1	21					Good	
601	5641	Oregon Red Alder	1	21					Poor	Epicormics and burls, high crown, mature
602	5642	Western Red Cedar	1	29					Good	Edge tree, leans South

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIA T R E E S L A R G E R T H A N 1 2" D I A M E T E R	I N C H D I A M E T E R	T r e e R e m o v a l L a r g e r t h a n 1 2" D i a m e t e r	T R E E R E M O V A L I N C H E S	T R E E D I A M E T E R L E S S T H A N 1 2"	H A Z A R D T R E E	T R E E C O N D I T I O N	C O M M E N T S
603	5643	Western Red Cedar	1	17	1	17			Fair	2 stems, 12" & 12" stems, lost top with new leaders, equivalent to a 17 inch diameter tree
604	5643	Western Red Cedar	1	14					Fair	2 stems
605	5644	Western Red Cedar	1	33	1	33			Fair	Open cavity with decay South side ground level to 16 feet above ground level
606	5645	Douglas Fir	1	27					Good	
607	5646	Western Red Cedar	1	28					Good	
608	5647	Douglas Fir	1	27	1	27			Good	
609	5648	Western Red Cedar	1	19					Good	High crown
610	5649	Western Red Cedar	1	26					Fair	Broken top with new leaders
611	5650	Western Red Cedar	1	16	1	16			Good	11" & 11" dia. stems
612	5651	Oregon Red Alder	1	20					Poor	Leans North epicormics, mature
613	5652	Western Red Cedar	1	23					Good	
614	5653	Western Red Cedar	1	25					Good	High crown
615	5654	Western Red Cedar	1	33	1	33			Good	
616	5655	no tree surveyed								NOT USED
617	5656	Western Red Cedar	1	32					Good	
618	5657	Western Red Cedar	1	18	1	18			Fair	2 stems, 16" & 8" dia.
619	5658AS	Western Red Cedar	1	22					Good	High crown
620	5658	Western Red Cedar	1	26					Good	High crown
621	5659	Western Red Cedar	1	27					Good	Edge tree
622	5660	Western Red Cedar	1	28					Fair	3" wide wound seam and cavity with decay ground level to 18 feet above ground level
623	5661	Western Red Cedar	1	20					Good	2" x 5" cat face South side above ground level
624	5662	Western Red Cedar	1	28					Good	High crown
625	5663	Western Red Cedar	1	18					Fair	High crown
626	5664	Western Red Cedar	1	21					Good	High crown
627	5665	Oregon Red Alder	1	15					Poor	Epicormics, leans North, mature
628	5666	Western Red Cedar	1	22					Good	
629	5667	Western Red Cedar	1	17					Fair	18" North of 14" Cedar
630	5667AS	Western Red Cedar	1	14					Fair	18" South of 17" Cedar
631	5668	Douglas Fir	1	29	1	29			Good	
632	5669	Western Red Cedar	1	16					Good	
633	5670	Western Red Cedar	1	17					Good	
634	5671	Douglas Fir	1	24	1	24			Good	
635	5672	Western Red Cedar	1	31	1	31			Poor	18" x 30 ft cat face South side with three new leaders at 30 feet, 3 leaders
636	5673	Western Red Cedar	1	21					Good	
637	5674	Western Red Cedar	1	25	1	25			Poor	20" x 35 ft cat face with decay West side

	A	B	D	E	F	G	H	I	J	K
1	POINT #	DESCRIPTION	VIALE TREES LARGER THAN 12" DIAMETER	INCH DIAMETER	Tree Removal Larger than 12" Diameter	TREE REMOVAL INCHES	TREE DIAMETER LESS THAN 12"	HAZARD TREE	TREE CONDITION	COMMENTS
638	5675	Western Red Cedar	1	19	1	19			Poor	Cavity and bulge at 18 ft above ground level
639	5675B	Western Red Cedar					9		Fair	East side
640	5676	Western Red Cedar	1	21					Good	
641	5656A	Western Red Cedar					6		Fair	2 ft East of #5656
642	5650B	Western Red Cedar					9			4 ft East of #5650
643	5678	Western Red Cedar	1	25	1	25			Poor	6" old cat face at 12 feet above ground level
644	5679	Western Red Cedar	1	33	1	33			Good	suspect decay
645	5680	Douglas Fir	1	33					Good	
646	5681	Douglas Fir	1	26					Fair	Flat burls, healed wounds on lower 5 feet of
647	5682	Cherry	1	12	1	12			Good	trunk on the East, South and West sides
648	5683	Douglas Fir	1	33	1	33			Good	
649	5684	Western Red Cedar	1	17					Good	
650	5685	Western Red Cedar	1	12	1	12			Fair	4 stems, 10", 4", 2" 8" dia
651	5686	Western Red Cedar	1	20					Good	
652	5687	Western Red Cedar	1	26					Good	
653	5688	Douglas Fir	1	23					Good	
654	5689	Douglas Fir	1	19					Good	
655	5690	Douglas Fir	1	22					Good	
656	5691	Western Red Cedar	1	13					Good	Field tagged #5697
657	5692	Western Red Cedar	1	27					Good	
658	5693	Western Red Cedar	1	20					Good	
659	5694	Douglas Fir	1	19					Good	
660	5695	Douglas Fir	1	21					Good	
661	5696	Douglas Fir	1	16					Good	
662	5697	Western Red Cedar							Good	Not used
663	5698	Douglas Fir	1	21					Good	
664	5699	Douglas Fir	1	23					Fair	
665	5700	Douglas Fir	1	20					Good	
666	5701	Western Red Cedar					11		Poor	Suppressed, 3" x 48" decayed cat face starts at
667	5702	Western Red Cedar	1	12					Fair	ground level South side
668	5703	Douglas Fir	1	22					Good	5" x 60" cat face South side starts at ground
669	5704	Douglas Fir	1	24					Good	level
670	5705	Western Red Cedar	1	12					Good	
671	5706	Western Red Cedar	1	14					Good	
672	5707	Douglas Fir	1	27					Good	

Attachment 2, Exhibit B, for Agenda Item No. 8 is a *Revised Tree Preservation Plan – Kurahashi and Associates, dated January 10, 2005*. Electronic copies of this plan follow this page.

Large paper copies the plan were submitted to Council. The public may view a large paper copy of the Revised Tree Preservation Plan in the Council packet materials located at the Tigard Public Library.

LAWYERS

RECEIVED PLANNING



JAN 20 2005

Davis Wright Tremaine LLP

CITY OF TIGARD

ANCHORAGE BELLEVUE HONOLULU LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

CHRISTOPHER P. KOBACK
Direct (503) 778-5382
chriskoback@dwt.com

SUITE 2300
1300 SW FIFTH AVENUE
PORTLAND, OR 97201-5682

TEL (503) 241-2300
FAX (503) 778-5299
www.dwt.com

January 19, 2005

Morgan Tracey
City of Tigard
13125 S.W. Hall Blvd.
Tigard, OR 97223

Re: **2129 Ash Creek Estates PUD**
LUBA Remand

Dear Mr. Tracey:

The purpose of this letter is to provide limited additional evidence relevant to the issues for the February 8, 2005 remand hearing on the above development application. In its decision dated August 20, 2004, LUBA sustained Petitioner's assignment of error that Windwood's landscape plan fails to show protection of existing vegetation as much as possible during construction. *See* TCDC 18.745.030(E).

Subsequent to LUBA's decision, Windwood commissioned an arborist to assist in the preparation of a new detailed tree plan. The preparation of that plan involved a formal tree survey that identified all trees over 12 inches in diameter that will be removed and retained. The arborist also prepared a formal tree protection plan for the trees being retained. I have enclosed a copy of the arborist's suggested protection plan. Windwood suggests that the City include in any approval of its application a condition requiring Windwood to follow the enclosed tree protection plan.

Very truly yours,

Davis Wright Tremaine LLP

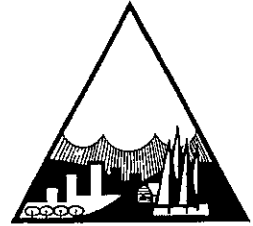
Christopher P. Koback

CPK/lkt

Enclosure

cc: Dale Richards, Windwood Construction

MEMORANDUM



TO: Morgan Tracy
FROM: Matt Stine, City Forester
RE: Ash Creek Estates
DATE: January 24, 2005

As you requested I have provided some comments on the "Ash Creek Estates" project. If you have any questions or concerns regarding my comments please contact me anytime.

1. LANDSCAPING AND SCREENING

18.745.030.C, Installation Requirements The installation of all landscaping shall be as follows:

1. All landscaping shall be installed according to accepted planting procedures.
 2. The plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and
 3. Landscaping shall be installed in accordance with the provisions of this title.
- The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.
 - In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:
 - No more than 30% of any one family be planted onsite.
 - No more than 20% of any one genus be planted onsite.
 - No more than 10% of any one species be planted onsite.

18.745.030.E, Protection of Existing Landscaping. Existing vegetation on a site shall be protected as much as possible:

1. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and
2. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).

See comments under "Tree Removal".

18.745.030.G, Conditions of Approval of Existing Vegetation. The review procedures and standards for required landscaping and screening shall be specified in the conditions of approval during development review and in no instance shall be less than that required for conventional development.

See recommended conditions of approval at the end of this memorandum.

18.745.040, Street Trees

A. Protection of existing vegetation. All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040.C.

- The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.
- In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:
 - No more than 30% of any one family be planted onsite.
 - No more than 20% of any one genus be planted onsite.
 - No more than 10% of any one species be planted onsite.

2. TREE REMOVAL

18.790.030, Tree Plan Requirement

- A. Tree plan required.** A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.
- B. Plan requirements.** The tree plan shall include the following:
- 1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;**
 - 2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:**
 - a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;**
 - b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
 - d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**
 - 3. Identification of all trees which are proposed to be removed;**
 - 4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**
 - As required, the applicant submitted a tree plan that was conducted by Terry Flanagan, of Terragan & Associates, Inc.. The plan contains all four of the required components of a tree plan, and, is therefore, acceptable.

- I suggest planting native species of trees as street trees such as bigleaf maple, cascara or Oregon white oak. Properly sized oaks can be found at River Oak Farm & Nursery. Call Diane at 503-357-2745

Below are my suggestions for the applicant to follow for tree protection guidelines:

- Prior to construction, a Tree Protection Plan shall be included with the proposed construction drawings conforming to the International Society of Arboriculture (ISA) guidelines for review and approval by the City Forester. All tree protection devices, along with their details and specifications, shall be shown on the Tree Protection Plan. This plan shall also include the building footprints shown in relation to the trees being preserved. Any tree that will not be removed onsite that is within the limits of disturbance of this project must be protected. Any tree that is located on property adjacent to the construction project that will have more than 15% of its root system disturbed by construction activities shall also be protected.
- Prior to construction, the applicant shall submit a detailed construction schedule to the City Forester with notations as to when tree protection devices will be either installed or removed throughout construction of the project.
- A note shall be placed on the final set of plans indicating that equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities shall not be located inside of any tree protection zone or outside of the limits of disturbance where other trees are being protected.
- All tree protection devices shall be:
 - Visible.
 - Constructed of 11 Gauge steel chain-link fencing supported on at least 2" O.D. steel posts. Each post shall be no less than four feet high from the top of grade. Each post shall be driven into the ground to a depth of no less than two and a half feet below grade. Each post shall be spaced no further apart than four feet.
 - Between each post, securely attached to the chain-link fencing, shall be a sign indicating that the area behind the fencing is protected and no construction activity, including material storage, may occur behind the fencing.
 - Inspected and approved in the field by the project arborist and City Forester prior to clearing, grading, or the beginning of construction.
 - Remain in place and maintained until all construction is completed and a final inspection is conducted.

To determine the size of the tree protection zone (TPZ) the project arborist should follow the guidelines listed below:

- For individual trees follow the trunk diameter method. For every one-inch of diameter at breast height (DBH), or 4 ½ feet above the ground, allow 12 inches of space from the trunk of the tree. For example, a tree that is 15" at DBH must have at least 15' of tree protection zone around the entire canopy of the tree.
 - For groups of trees the tree protection zone must be outside of the drip line of the trees on the edge of the stand. If there are conifers with narrow crowns on the edge of the stand follow the trunk diameter method or the drip line method, whichever is greater.
 - Calculate and follow the Optimal Tree Protection Zone calculation as shown in *"Trees and Development: A Technical Guide to Preservation of Trees During Land Development"* by Nelda Matheny and James R. Clark.
 - The project arborist may propose an alternate method for the establishment of the TPZ, provided the effort is coordinated with the City Forester.
- If it is necessary to enter the tree protection zone at any time with equipment (trucks, bulldozers, etc.) the project arborist and City Forester must be notified before any entry occurs. Before entering the TPZ, the project arborist and City Forester shall determine the method by which entry can occur, along with any additional tree protection measures.
 - Prior to issuance of building permits, the Project Arborist shall submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

RECOMMENDED CONDITIONS OF APPROVAL:

1. Prior to commencing any site work, the applicant shall submit construction drawings that include the approved Tree Removal, Protection and Landscape Plan. The "Tree Protection Steps" identified in Teragan & Associates Letter of November 19, 2004 shall be reiterated in the construction documents. The plans shall also include a construction sequence including installation and removal of tree protection devices, clearing, grading, and paving. Only those trees identified on the approved Tree Removal plan are authorized for removal by this decision.
2. Prior to commencing any site work, the applicant shall establish fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Forester for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are

performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

3. Prior to final plat approval, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through site work, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City shall stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.
4. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the house. All proposed protection fencing shall be installed and inspected prior to commencing construction, and shall remain in place through the duration of home building. After approval from the City Forester, the tree protection measures may be removed.

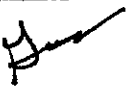
If you have any questions please call me anytime. Thank you for requesting my comments on this project.



MEMORANDUM
CITY OF TIGARD

13125 SW Hall Blvd.
Tigard, OR 97223
Phone 503-639-4171
Fax: 503-624-0752

TO: Morgan Tracy
Associate Planner

FROM: Gus Duenas 
City Engineer

DATE: January 25, 2005

SUBJECT: Ash Creek Estates

The applicant on this development project has submitted design drawings for 74th Avenue that include a sag vertical curve that does not meet the design standards. They have asked for an exception to the standards in order to minimize the amount of fill placed over the City of Tualatin water transmission line. The 'k' value that results from this design will not meet the standards for a 25 mph posting. The City Engineer may authorize modification of the street improvement design standards if justified and if the street can be made safe for motorists to use with those modifications in place. To ensure that the appropriate speed is followed for the street at that location, the posting of an advisory 15 mph sign is required. The construction of a street that does not meet the design standards at that sag is acceptable provided a 15 mph advisory sign is posted as part of the project.

The applicant has also proposed posting stop signs on all legs of this 'T' intersection and the construction of a speed table crossing 74th Avenue. These alternatives are not desirable. The installation of the advisory speed would provide for safe passage at that location and does reduce the depth of fill over the existing water line.

The sag location should be monitored after construction to determine if any other measures need to be taken. The applicant must commit to installation of additional measures within a year after construction of the street if observations indicate that additional traffic control measures are needed.

c: Kim McMillan
Dick Bewersdorff